

# ATTACHMENT BOOKLET 4

**ORDINARY COUNCIL MEETING**

**TUESDAY 28 MAY 2019**

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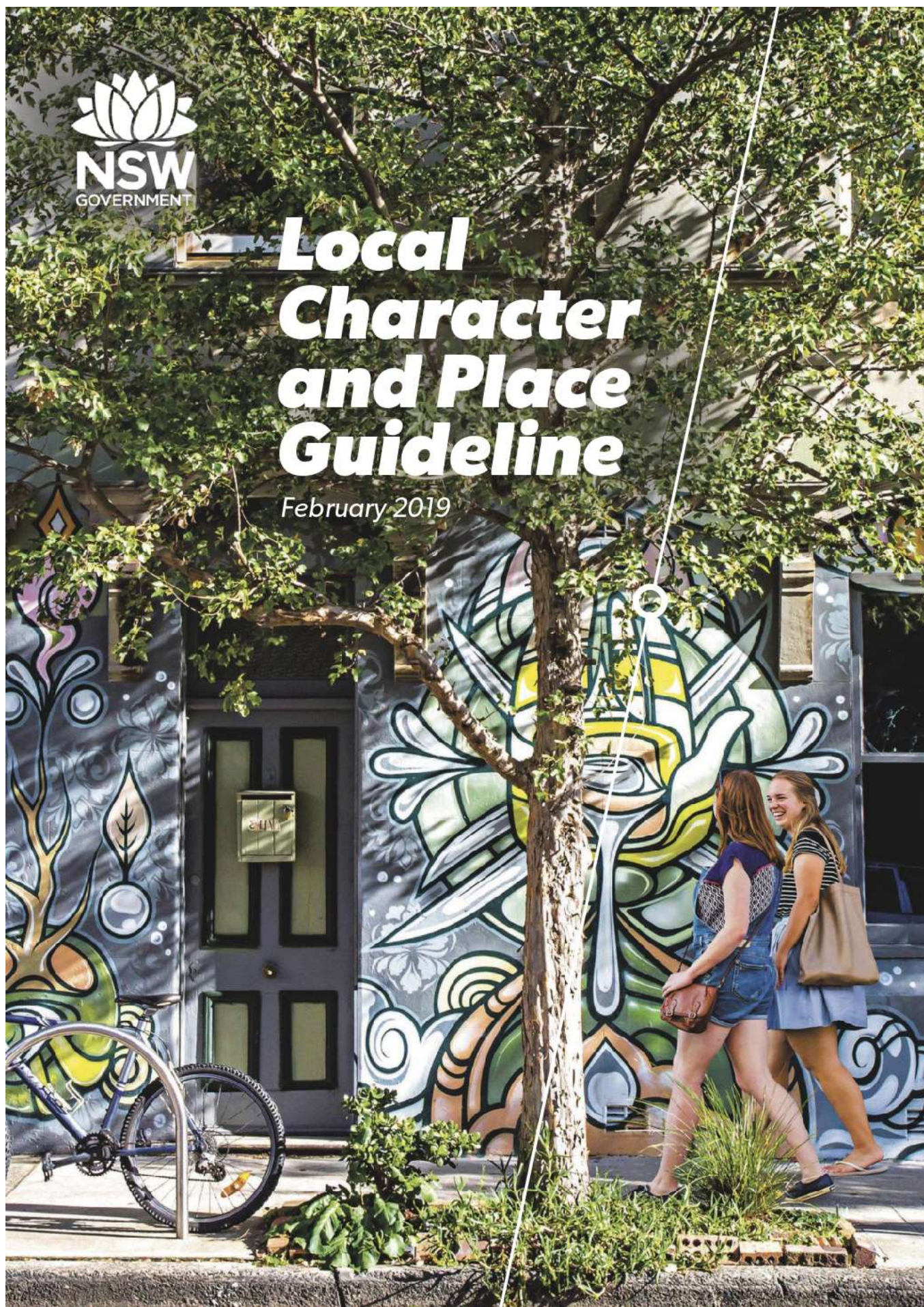
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# Local Character and Place Guideline

February 2019





February 2019

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We wish to acknowledge Aboriginal people as the traditional custodians of this land. Through thoughtful and collaborative planning, we seek to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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# ○ ***Introduction***



## Executive Summary

New South Wales is a diverse collection of places with unique local character. In recognition of this fact, the NSW Government aims to ensure that our planning frameworks provide the capacity to ensure we can maintain, enhance and cultivate the unique character and identity of places. The Local Character and Place Guideline is a response to community feedback and Government's direction to elevate the consideration of local character in NSW planning decision making.

Local character is what makes an area distinctive. It is the translation of land use and built form, the local economy, public realm and private spaces and the tradition and history of Aboriginal and non-Aboriginal cultures, intrinsically linked to individual places. Character is fluid and reflected by people who value and influence the places they are connected to in different ways.

Places are multi-layered and diverse environments within the broader context of society. Individual places can be described or understood by people in different ways and at different scales. They are made up of interrelated layers and elements which are understood through physical form, activity, and meaning.

Part one of the guideline provides information to clarify the key influences of local character and place, how local character can be integrated into the planning system and current approaches for the inclusion of local character in local planning.

Part two introduces the Character Assessment Toolkit. The toolkit aims to encourage consideration of local character in strategic planning. The toolkit provides steps to determine the character of a place, including early and effective engagement, key sources of data, and strategies for mapping local character. It then provides guidance on how governments and communities might go about producing a character assessment and setting the desired future character of an area.

A character assessment will assist government in identifying existing character and set expectations for desired future character. The character assessment will inform whether character areas should change, be enhanced or be maintained. It can be utilised to illustrate a local character statement or to inform council plans or strategies.

Part three – the final section, provides an outline for how to integrate consideration of local character into the planning framework, first as part of the strategic planning process and then through its translation into statutory controls. Clear articulation of character through a local character statement can provide a reference point for future planning decisions. Local character statements may be used when reviewing land use zones, development standards and controls, or when proposing and assessing development.

Together, a character assessment and local character statement outline desired future character, informing the objectives, standards and controls within local plans that guide future development.

The Local Character and Place Guideline is accompanied by online attachments to the guideline including:

- Local Character and Place Guideline and plans interactions;
- Considerations for recognising local character in areas of change;
- Discussion paper – local character overlay; and
- Local Character and Place Collection (E-Publication).



## Introduction

Supporting and nurturing local character through planning helps people make great places. The NSW Government has heard the message that communities would like local character consideration to be elevated in NSW planning decision-making.

NSW is changing; the population is growing and getting older, it is increasingly socially, culturally and economically diverse. This growth is being met with new infrastructure and investment, new business and job opportunities, changing household structures, technological innovation, and a changing natural and built environment. In some areas of NSW there will be population decline; planning for this type of change is just as important. These different facets of change in NSW all have an impact on the character of a place and require a strategic planning focus.

Ultimately, this strategic focus will help us to work with communities to create places that people are proud to live in, where the community collaborates with local and state governments to plan how and where we are going to accommodate the growing population, while maintaining the essence of what it is that the community values about their places.

If we understand what it is about a place that people cherish, identify with and relate to, then architects, urban designers, planners and place-makers have the context and direction to manage change that meets community aspirations: we refer to this as exploring local character and place.

## Endorsement by Government Architect NSW

The Guideline has been drafted in collaboration with Government Architect NSW, who recognises the importance of local character in planning for future growth of great places. The Guideline has been developed to align with Government Architect NSW policies including Better Placed.

## Who can use this guideline?

This guideline is anticipated to be primarily used by governments (councils and NSW Government) to develop responses which are contextual to their needs and has been written with the primary users in mind. However, the guideline enables built environment professionals, decision-makers, government leaders, local government, private enterprise and community to contribute positively in shaping the local character of an area.

## Purpose

This guideline provides the tools and assistance to empower local government to establish what is important in their local context and determine the identity of a community's spaces and places. It will enable communities and governments to understand and define existing valued elements of character and to set a desired future character that aligns with the strategic direction for an area. The guideline aims to support a stronger consideration of local character regardless of the nature of change that an area is planning for. It includes:

- a definition of local character and place
- who shapes local character
- tools to understand local character and place
- strategies for bringing character and place into plan making.

How we identify character and place requires effective engagement with the community early in planning processes. The residents, workers and visitors of and to a local area are best placed to provide insight into a community's values and aspirations – even if there are conflicting perspectives between stakeholders.

Places serve different purposes for different people and a character assessment process provides a tool to enrich our understanding of this.

This guideline aims to support good design, placemaking and local character. It sits alongside the work by the Government Architect NSW, the Greater Sydney Commission and other publications produced by the NSW Department of Planning and Environment.

## What is local character?

Character is what makes a neighbourhood distinctive and is the identity of a place. It encompasses the way it looks and feels. It is created by a combination of land, people, the built environment, history, culture and tradition including Aboriginal and non-Aboriginal, and looks at how they interact to make a distinctive character of an area.

Local character is distinctive, it differentiates one area apart from another. It includes the sense of belonging a person feels to that place, the way people respond to the atmosphere, how it impacts their mood, their emotional response to that place and the stories that come out of peoples' relationship with that place.

Local character contains many different facets. It is important to understand character in a holistic way, which involves examining the relationship with people and the social, environmental and economic factors of place. Global trends across these factors have shaped places over time and will continue to have a significant influence in the future. Local character should guide how to manage a changing urban environment so that any changes are sympathetic to the valued characteristics.

## What is place?

Place is the layout, division and built form of built environments – its patterns, landscape, density, development, land use and mix, these aspects set the groundwork for places to flourish.

Places are multi-layered and diverse environments within the broader context of society. Individual places can be described or understood by people in different ways and at different scales. This is because they are made up of many interrelated layers and elements which are generally understood through the physical form and activity occurring in the location. Places have a clear and strong identity and character.

## The value of local character

Places which develop in response to an identified local character and agreed desired future character are likely to be more sustainable, contribute to good quality of life and attract investment.

There is economic value in paying attention to liveability indicators. Improving the identity of a place and supporting its character has a positive effect on liveability. Local character and good design have a clear connection which is why 'place' has been included in this guideline to recognise the relationship between urban design, place making and character.



## ***Part 1 – Local character influences and approaches***





## What influences local character

The NSW planning system contains levers to encourage change and development that supports local character, whether through regional, district or local strategic planning, statutory plans and policies, urban renewal or development assessment. This requires a shared understanding of local character and context by all players and a shared goal of striving to achieve a positive social, economic, environmental impact on local character while minimising adverse impacts on future generations.

Further, there are varying degrees by which people (active and passive players) help shape local character. Business owners, chambers of commerce and local progress groups may influence a traditional high street or local shops, which impacts the retail mix, street activity and provision of local experiences.

There needs to be a recognition that there are influences on character outside of the control of the planning system including the economy, changes to the climate and/or environment, demographic shifts and technology advances. An example is the slowdown of the global economy, which will filter down from the national, state to the local level and in turn impact character through the local economy, the local population, housing supply and employment.

## Local character and a plan-led system

The introduction of regional strategic plans across NSW and district strategic plans in Greater Sydney has kickstarted the conversation about local character, and how these elements can be better integrated into the planning system.

The preparation of local strategic planning statements is an opportunity for councils and their communities to identify and specify a 20-year vision for land uses in the local area; local character and place is an integral part of this work. Local strategic planning statements will link to community strategic plans to provide a complete picture across all the planning functions undertaken by a council to establish an area's future direction.

State and local plans provide further opportunities for local character to influence how and where development should occur. Reviewing local environmental plans (LEPs) and development control plans (DCPs) to align with strategic plans allows councils to integrate local character into their planning documents.

DCPs guide how development should occur and contain controls that emerge from council's understanding of an area's local character. These controls often seek to preserve or replicate the main architectural or urban design elements of a place. While this is useful, local character work should also be complemented with an aspirational statement of what the community values. This will improve clarity around the purpose of the controls and consequentially improve decision-making.

Other documents that influence or shape the consideration of local character are:

### State

- Better Placed
- Draft Good Urban Design
- Draft Urban Design for Regional NSW Guide
- Draft Designing with Country
- Design Guide for Heritage
- Draft Greener Places

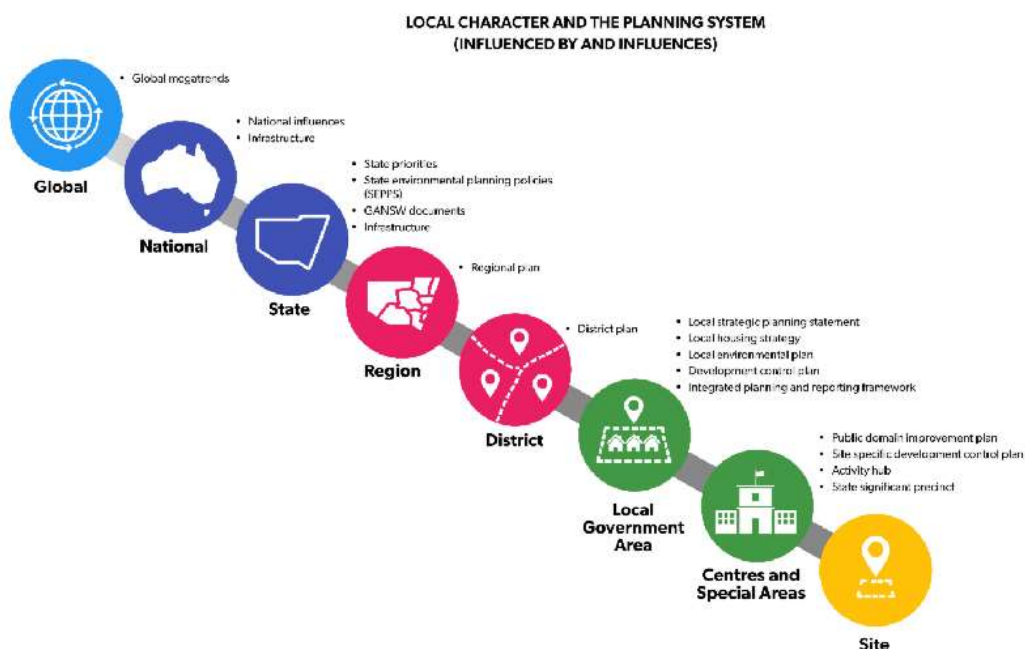
### Local

- Community strategic plans
- Local strategic planning statements
- Local housing strategies
- Community participation plans
- Social plans
- Cultural plans
- Environmental strategies

- Low Rise Medium Density Housing Code
- Low Rise Medium Density Design Guide
- Planning for the future of Retail - Discussion Paper
- Heritage guidelines produced by the Heritage Office
- Contributions plans
- Economic strategies
- Public domain improvement plans.

Further information on how local character interacts with existing strategic and statutory plans can be found in Attachment A - Local Character and Place Guideline and Plan Interactions, which is available on the local character page of the Department's website.

The diagram below demonstrates the line of sight in the plan-led planning system for strategic and statutory documents as it relates to local character.

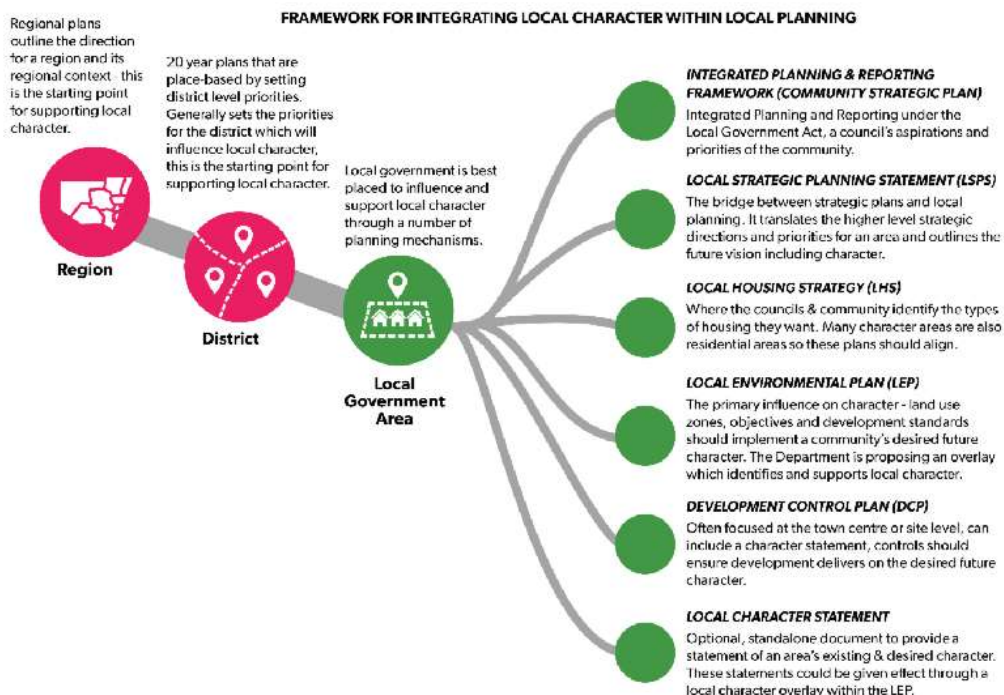


**Figure 1 - Local character and the planning system (Influenced by and influences)**

## Shaping local character using the NSW planning system

Each council in collaboration with its community can choose how they wish to consider local character through the planning system. The following diagram (Figure 2) depicts the framework for integrating local character in the local planning system. It provides a summary of the main strategic and statutory plans and policies that have a direct relationship to local character.

Where a council decides not to introduce local character statements, character assessment can be used to directly inform local plans, statements and strategies.



**Figure 2 - A framework for integrating local character within local planning**

The framework demonstrates that overarching strategic direction is set at the regional/district level and flows down to more detailed strategic planning for places at the local level. Regional and district strategic plans provide the context for and set the direction within which local character can be supported. Figure 2 reflects the framework with most of the detail and opportunity for supporting local character sitting within local plans.

### Community Strategic Plan

Community Strategic Plans are a requirement for all NSW councils under the *Local Government Act 1993* and they are a key influence on local character. Existing community strategic plans provide the aspirations and direction for a council, they cover all aspects of local government management and operation, including land use planning. A council's community strategic plan will generally outline:

- Where are we now?
- Where do we want to be in ten years time?
- How will we get there?
- How will we know when we have arrived?

Community Strategic Plans are a key resource for councils as they look to explore and support their area's local character.

### Local Strategic Planning Statement



The statements will act as a unifying document, drawing together and summarising planning priorities identified through state, regional, district and local strategic work. They provide the local context and local-scale expression of actions and priorities from these plans.

It is anticipated that councils will utilise the LSPS to identify and describe their valued local character areas and outline the desired future character. Councils are required under the *Environmental Planning and Assessment Act 1979* to align their local environmental plan to their LSPS. Additional detail on the function of the LSPS is available [here](#).

#### **Desired Future character**

Desired future character refers to an agreed vision of how an area will change over time, including an identification of characteristics to be retained or enhanced.

Desired future character is often articulated through a character statement or integrated into development controls.

#### **Local Housing Strategy**

The Local Housing Strategy (LHS) ties council's vision for housing with State Government led strategic plans. They present council's response for how the housing components of regional and district strategic plans will be delivered locally. Where housing targets are part of regional or district strategic plans, these will be addressed in the Local Housing Strategy.

Identification of existing and desired future local character will be important considerations for identifying areas of change and growth which support the delivery of housing to meet identified needs. Additional information of LHS is available [here](#).

#### **Local Environmental Plan**

The Local Environmental Plan (LEP) is the primary land use planning mechanism that influences character. The land use zones, objectives and development standards establish the context for decision making on individual developments which shape local character. Accordingly, where an area has been identified as requiring a stronger consideration of local character, the LEP should be reviewed to ensure that it delivers on the community's desired future character.

#### **Local Character Overlay**

The Department is seeking feedback on an approach outlined in Discussion Paper – Local Character Overlay for an optional local character overlay which would introduce a map layer and associated clause identifying character areas. The overlay would sit within standard instrument local environmental plans and would provide a legal mechanism for introducing additional character assessment requirements for development applications or to exclude certain land from certain complying development or provide alternative requirements. [The discussion paper can be viewed on our website.](#)

#### **Local Character Statement (optional)**

A Local Character Statement (LCS) is an optional, standalone document that a council could produce comprising a description of an area's existing character and detailing its desired future character. It is a place to describe a community's preferences for how an area could change while retaining its unique character. These statements could be implemented through introducing a local character overlay and associated standard instrument clause within the LEP.

## Development Control Plan

The Development Control Plan (DCP) has the capacity to include a character statement or character description which would set the context for development assessment. The controls within DCPs (regardless of whether the character statement/description sits within the DCP) should be calibrated so that development delivers on the desired future character of an area.

The Department is introducing a standard format for DCPs to make it quicker and easier for people to navigate the planning system and its controls. [Additional information on the standard format DCP is available.](#)

## Approaches for integrating local character

The following diagram (Figure 3) provides three possible approaches on how a council could integrate local character into local land use planning. Using the local planning mechanisms outlined in Figure 2, a council can adapt their own approach for integrating local character into their plans. The three approaches outlined below are the most common scenarios that councils could choose. The difference between the three approaches is which local plan will contain the local character description and identify the desired future character. Another difference between the approaches is the level of weight given to local character each approach affords. Which approach the council chooses will reflect the level of support a council feels is warranted, with approach two being the strongest. With each approach it will be necessary to ensure that the council can still deliver on its strategic priorities as set in the regional and district strategic plans.

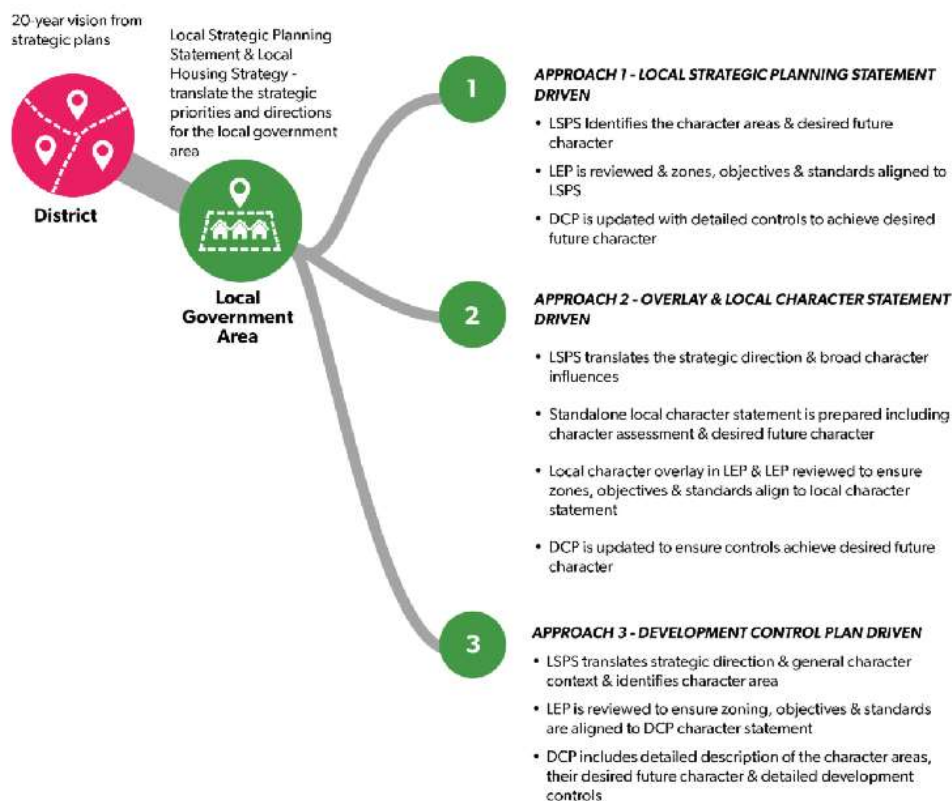


Figure 3 – Approaches for integrating local character into local plans.

## Who shapes local character?

The effectiveness of the planning system relies on collaboration with and input from community so that outcomes suit the needs of the people it is planning for. The active players that interact with the planning system and shape local character include the community, local government, private enterprise and the NSW Government.



**Figure 4 – Who shapes local character**

The community includes anyone who identifies with that place – the people who participate in the activities of that place or who preserve or evolve that space and the elements within it. For example, the people sitting at a café in a main street reinforce the character of that street; or when people change the appearance of their home, they evolve the character of their residential street. The experience of character is the interaction with space at the most intrinsic level.

When people use and experience places differently, planning for the change of an area becomes more complex. Council must engage with all these communities, to hear how they experience their areas and record what it is that they value – this is the identification of character – to find common ground and set a desired future character for the area.

Councils can lead or partner in redevelopment or revitalisation projects. Councils that wish to integrate local character into their planning, can prepare a local character statement (see below and Part 3).

Private enterprise designs and delivers land use activities and development and contributes to the local economy and vibrancy of an area. Development and activities should be compatible with the agreed desired future character. Local character statements can also help private enterprise to understand and align their proposals to their community.

### **Local character statements**

An encouraged approach to articulate local character and to help crystallise the community's aspirations for an area. Local character statements may be a starting point for the community to identify the agreed direction for the future of their locality. They can be integrated into the planning system at various stages.

The NSW Government steers and shapes local character as it builds infrastructure, introduces or undertakes reform of policy, legislation and the planning system agenda. The NSW Government sets the strategic direction through regional and district strategic plans.



## Local character and heritage

Heritage is distinct from local character, although there are often common elements between a conservation area and a place with a valued or distinctive local character. In this guideline, references to local character are not areas to be preserved; it is not an alternative form of heritage listing where an area does not change or evolve. Heritage and the preservation of places or specific items is dealt with under the NSW planning system as heritage conservation areas or heritage items.

There will be areas that are not heritage listed that the community still see as having valued characteristics that they want to maintain as the area changes and grows. Where a more comprehensive protection of the existing area is desired council should investigate whether these areas are appropriate for heritage conservation listing as part of broader strategic planning so that regional and district strategic plans align with new conservation areas.

Another interplay between heritage and character is where an area provides curtilage or locational context to heritage items. The area adjacent to a heritage item may not warrant conservation area listing, whereas the heritage item may influence the character and identity of that place.

Managing heritage is not just about managing the material culture of the past, it is also about understanding how heritage influences and shapes communities today. For example, in conservation areas or places of heritage significance, local character and place identity is often shaped by its built or natural heritage items. This relationship and influence should be considered when defining local character.

## Local character in infill versus greenfield areas

Greenfield areas refer to undeveloped areas that are the communities, new neighbourhoods and postcodes of the future. These areas undergo substantial change to the landscape as they can be rezoned from an area with no development on the site to industrial, employment or residential land. It is important that we create these new areas to be interesting and diverse by drawing from their physical surrounds, history and culture, as well as the types of new homes, shopping amenities, industries, community facilities and cultural activities that attract people to the area.

While every community has a unique character that reflects the landscape and physical form of the area, greenfield areas also need specific attention as they don't have a pre-existing built environment. This can be done through the creation of future character, through strategic visioning. As greenfield areas develop, and communities become established, the character of those areas will evolve. There are examples of master planned communities that have successfully created local character through careful design considerations and recognition of the needs of future residents.

This guideline acknowledges that local character in greenfield areas will be influenced by strategic planning that incorporates the same themes and sub-themes of local character as infill areas.



## ***Part 2 – Character assessment toolkit***

Part 2 of the guideline contains a character assessment toolkit which can be used alongside the draft Good Urban Design document that supports Better Placed policy produced by the Government Architect NSW. The toolkit and the draft Good Urban Design document provide a mechanism to understand local character and place.

This section introduces tools to examine the character of an area through qualitative assessment. This toolkit will assist with preparing a character assessment.

## Step 1 - Hearing from your community

Once a decision has been made to incorporate local character into planning processes, conversations with the community can help to understand people's relationships with places. Community engagement processes facilitates interactions between communities, governments and private enterprise and can be utilised at all stages of planning.

When conversations with the community occur early in the planning process, planning for local areas is easier as there is common understanding of shared values, what is trying to be achieved and a shared focus between community, government and private enterprise on achieving the outcomes. Many councils already undertake effective engagement to understand their local character. Below are some best practice principles and factors that councils consider when engaging with the community.

### Effective community engagement

Conversations should:

- focus on the best interests of the community.
- be inclusive and represent a diverse range of people.
- be clear on the purpose including what is and is not negotiable.
- be open to observations, comments and ideas coming from the community.
- be transparent - open, honest and meaningful.
- be available to all - consider the time, place and language of the conversation including all records of the conversation.

Effective conversations provide invaluable insight into how the community uses places, its needs and wants, as well as an intimate understanding of how a place works. This will support how an area will evolve, giving the community the advantage of understanding the issues of their area and the opportunities and limitations on what can be achieved. It will also inform private enterprise by understanding what councils and communities want in their local area.

Factors to consider when undertaking community engagement include:

- starting with a community engagement strategy that outlines the purpose, objective and audience to focus all conversations.
- choosing engagement processes that are appropriate to the stage of planning (and consistent with the applicable community participation plan).
- tailoring engagement techniques, styles and approaches according to the audience.

- recognising that there will be different language styles used by different stakeholders.
- tailoring the language used when engaging with the community to ensure it is plain English.
- recognising, accommodating and where possible managing conflicting perspectives.

### Engagement strategy

An engagement strategy outlines the approach for all conversations on local character, starting with the purpose of the conversation. The strategy should identify stakeholders, beyond those who regularly participate, and the approaches for people with different communication needs and preferences. For example, a 5pm town hall meeting won't work for people who will still be at work.

#### Community participation plans

Councils and the Department of Planning and Environment are preparing community participation plans to set out when and how planning authorities will engage with their communities across all the planning functions they perform under the *Environmental Planning and Assessment Act 1979* (EP&A Act). These plans seek to enhance opportunities for all members of the community to participate in planning decisions to achieve better planning outcomes. The new community participation plans will detail how each planning authority will engage the community in the planning decisions it makes.

Engagement strategies should consider the unique circumstances of each project and meet the needs of the project, as well as the affected stakeholders. They should also consider demographic profile, how information will be used, shared and reported, including a timeframe of key milestones and deliverables.

### Strategic context

Regional and district strategic plans are developed through consultation and are a good starting point for drawing on some of the relevant directions to start the conversation at the local level.

Any local engagement should translate strategic and statutory plans to set a valuable context about established priorities. This will allow a more focused and informed conversation without outcomes that contradict pre-defined commitments such as infrastructure provision, investment, population growth projections or environmental considerations.

### Repositioning Strategic-led planning

The NSW planning system is being shifted into a strategic-led planning framework so that planning decisions are informed by a strategic plan, where each level informs the next, setting the context and direction to be detailed in subsequent plans. The purpose is to provide a clear line-of-sight between key strategic priorities identified at regional or district spatial scales and the fine-grained planning at local, centre and neighbourhood scales.



Figure 5 - Elevating strategic planning

Introducing this approach requires a feedback cycle from local to regional planning ensuring that the line-of-sight between the different levels of spatial planning works both ways. As many statutory plans weren't informed by a strategic vision there may be a need for statutory plans to be reviewed. Additionally, much of the emphasis of community engagement has been at the detailed level of development assessment rather than at the strategic level.

This shift means there may be engagement on many planning documents, often concurrently – this could fatigue the community. Smarter engagement that minimises duplicated conversations multiple times can be avoided – for example, engagement on local strategic planning statements can also be used for local character.

### **Tailoring engagement**

Engagement should be tailored to the community and held at the stage of the conversation where local character is being explored. Engagement may begin with a select set of community members that represent the demographic makeup of the community, with this initial group growing as a larger sample of experiences and aspirations are harnessed. At the latter stages of the process community ambassadors could be nominated to work through the finer detail. No single approach will work everywhere; this detail should be tailored to the area within the engagement strategy.

Multiple approaches and engagement tools will make engagement easier for communities. Some engagement tools include submissions, surveys, workshops, stalls, focus groups or social media. This is not a comprehensive list but a starting point. Some techniques are more cost-effective than others and not all councils have large engagement budgets. A balance is required to access a range of voices through cost-effective, innovative approaches. The increasing prevalence of data from social media also means that emerging social analytics tools are available to access data from social media trends.

The diversity of a community should also be considered through engagement, ensuring all members of the community are able to participate. This may mean information is prepared in multiple languages, to be understood by different age groups and sessions available at various times and days and can be attended both physically and virtually.

### **Engagement and managing differences**

Different approaches are needed to manage conflicting opinions, including clarity on the approach for considering engagement feedback. Some of these approaches include:

- holding a meeting on neutral territory.
- setting ground rules for participation including being respectful and courteous.
- identifying the extent of the conflict.
- identifying the type of conflict (technical, ideological).
- identifying and outlining areas of difference early.
- uncovering the motivation behind the participants' perspectives.
- using multiple forms of communication (written, verbal, etc.) to move beyond the disagreement and record the necessary information.
- providing an alternative forum for resolution of the conflict (workshop, meeting, etc.).
- deciding on the conflict resolution technique, ideally before the disagreement occurs (agreement, compromise, voting, overruling, etc.).



- making clear that feedback will be considered but will not be adopted outright and that there will be other opportunities to provide feedback (where possible).
- delivering the result to all participants involved in the conflict (a record of what was heard, feedback report and the decided outcome).

**Character assessment**

Communities will be able to identify that they like particular areas, but they may not be able to articulate exactly why. This may be true if what is valued is intangible or relates to the finer detail of urban form such as those identified under Local Character Wheel (Figure 6). Some of these include: wayfinding, elements in the road reserve, landscaping within the front setback and protection from the weather. This guideline will help to put words to those aspects of a place that are valued.

## Step 2 – Identifying an area’s character

A character assessment identifies the major characteristics as well as the intangible aspects of experience and emotional response. Ideally this exercise should be done with community to gain a deeper insight.

### Identifying boundaries

The physical boundaries of a character area could be natural features, open space, thoroughfares, infrastructure, change in use (commercial to residential) or special features. There may be a change in character where one area can be characterised differently from an adjacent area. This may also involve working with adjacent councils.

The Local Character Wheel (Figure 6) will identify the social, environmental and economic features within the boundary area and assist in identifying the area’s character.

In addition to the Local Character Wheel, Government Architect NSW’s place analysis tool (available online via the GANSW Website) can be used to obtain a rounded understanding of place assessment. It begins by identifying the key site information followed by analysis of the pre-existing factors that generate a place – its ‘spatial geography’ – and forms the basis for implementing urban design and planning.

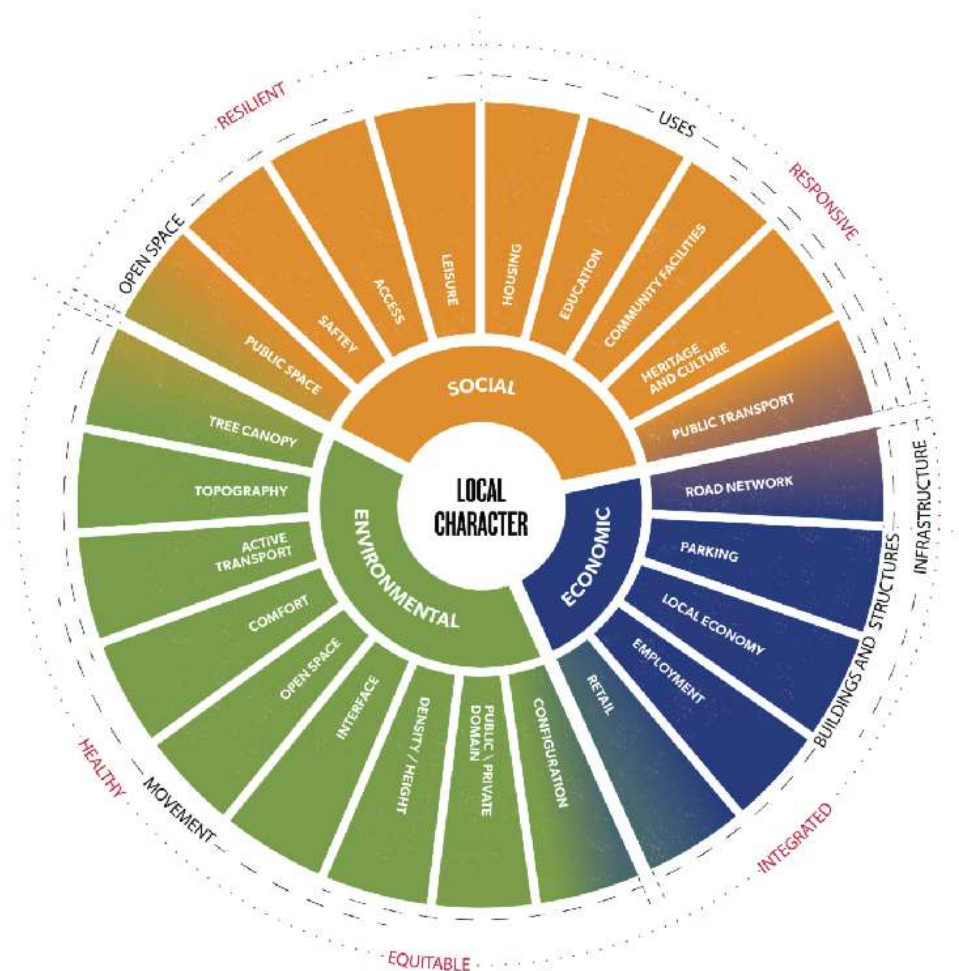


Figure 6 – Local Character Wheel

## Social

The planning system supports an area's social factors. This involves examining the local population, including the people who live, work and visit a community, and the social networks and groups they participate in. The demographics of an area provide insight into the population composition of a community in terms of age, gender, dwelling types, family and household composition, marital status, language, income, immigration and ethnocultural diversity, education, labor, and mobility. In addition to the existing demographic composition of a community, the forecasted demographic composition is also important to consider. This section of the Local Character Wheel provides insight into the social features that should be understood when identifying an area's local character.

### Public Space

Streets | Waterfronts | Footpaths | Museums | Libraries | Parks

Public space refers to any space accessible to the public including open environments: streets, plazas, gathering spaces, parks, trails, waterfronts or beaches. It also includes sheltered spaces: public libraries, museums, religious institutions, public infrastructure, transport, energy and utilities. When well-designed, the public space is inclusive and accessible to people from all age groups and physical and mental abilities, and enhanced with elements of the natural environment, such as trees and vegetation. Public space fosters social interaction and cohesion while providing spaces for markets, festivals, celebrations, gatherings, and recreation.

Components of the public space include:

- elements in the road reserve – street width, footpath, cycleway, road pavement, materials – e.g. sandstone kerb, vehicular crossing, street parking, loading.
- landscape – trees, shrubs, grass, vegetation, proportion of soft vs hard surfaces, parks.
- infrastructure – power lines, street lighting, signage, bus shelters, bins, seats, bike racks, way finding, street furniture, statues, street art.

### Safety

Sightlines | Passive Surveillance | Wayfinding

The safety a person experiences is influenced by environmental design principles such as passive surveillance, sightlines, lighting of public spaces, and wayfinding. Safe spaces contribute to the enjoyment of the public domain and these elements influence the 'feel' of a community.

### Access

Connectivity | Site access

Access and connectivity between a neighbourhood and other surrounding communities, both locally and regionally, is essential. It is important to consider access to, from, and between neighbourhoods and communities; as well as access to, from, and between lots, buildings, streets, amenities and parking areas.

### Leisure

Activities | Events | Passive recreation | Natural features | Sports

Leisure is about the enjoyment of a place and a variety of uses can contribute to this including gyms, sports venues, cinemas, cultural venues, shops or parks. The use of land for leisure contributes to a well-rounded place.

## Housing

Housing diversity and choice | Affordability | Ageing

A neighbourhood's building types influence the lifestyles and character a place. Building typologies – for example, detached houses, semi-detached houses, town houses or apartments - can determine a community's demographic composition and relationships. They provide for different personal needs, accessibility requirements, household structures or income level.

Housing diversity supports a vibrant built environment for a range of lifestyles and influences affordability. Understanding the type and supply of housing within a community will determine how future housing demands will be met. It is important to differentiate between residential areas that contribute to local character and those that may detract from it, thereby presenting an opportunity for renewal.

## Education

Early childhood | Primary schools | High schools | Post-secondary and universities

Beyond learning, schools and universities build community, friendships, and reflect diversity. Understanding the existing and future supply and demand will integrate the planning for new schools in the early planning of new and existing neighbourhoods.

## Community facilities

Community centres | Libraries | Sports facilities | Child care | Youth services | Seniors services

Community facilities support cohesive and integrated communities, with places for people to gather and socialise. They foster a strong sense of place and instill community pride. Community facilities should be provided proportionally to a community's population and those facilities of particular value or in need of improvement should be recognised for enhancement.

## Heritage and culture

Built Heritage | Aboriginal culture | Arts and culture

A community's history defines its character and may be shaped by many influences and found in many forms, whether Aboriginal history and stories; heritage-listed buildings, sites, districts, or landscapes; or important cultural features, landmarks, landscapes, decorative features (materials, detailing, awnings, etc.) events, or people. Heritage and culture are key elements of what a community enjoys about their local area and how they celebrate who they are. Through considering the heritage and culture of a place, a sense of 'meaning' can be maintained or enhanced as the place evolves.

## Public transport

Trains and Metro | Light rail | Buses | Ferries

Networks of public transport, including trains, the metro, light rail, buses and ferries influence character by the way people experience and interact with a place. A good public transport network links origin to destinations, whether work, school, or play.

Expectations for public transport in growing communities are increasing, with demand for short duration, few-mode transfers, and high service frequency and reliability. Public transport supports a more sustainable society, reduces congestion and better connects communities.

## Economic

The economic activity of an area is more than the prosperity of an area, it looks at many different elements such as the unique businesses, the jobs available, major employers, supply chains, predominant industries, retail uses, the road network and parking which assists in movement of goods and people. These different economic features shape the unique identity of an area.

### Local economy

Economic activity | Unique businesses | Business community and networks

Local economies contribute to and attract different demographics and local character. Local economic identity can be shaped by local trends, such as coffee and café culture, tech start-ups or family-owned businesses. A community's economic identity as shaped by unique businesses, industries or activities often contributes to local tourism and draws visitors from afar - thereby leaving a positive economic impact.

### Employment

Jobs | Major employers | Predominant industries | Regional employment hubs

Employment opportunities and industries can contribute to character of a place. Having the opportunity to work close to home is highly valued and contributes to a higher quality of life. Many regional employment areas also benefit from air, sea or rail ports access, and associated unique opportunities.

Local employment and business opportunities requires the retention, expansion or intensification of employment, commercial and industrial lands. This may also include opportunities to work from home and in local centres. The implications of regional employment and a community's role within its regional economy should be recognised.

### Road network

Motorways | Arterial roads | Collector roads | Local roads | Lanes<sup>1</sup>

A well-defined road network and hierarchy can improve circulation, reduce congestion, and enhance road safety through a structure of motorways, arterials, collectors, and local roads. Road networks should link origins to destinations.

While better public and active transport will reduce the need to use private vehicles, some journeys cannot be easily made by these transport modes, requiring road networks as a viable alternative.

### Parking

At-grade | Above-grade | Below-grade | Permeable parking

Planning for sufficient parking must be balanced with the need to reduce car reliance and road congestion. Parking should be considered from a design perspective by reducing surface parking, encouraging underground or podium parking, and increasing the environmental sustainability of parking through permeable surfaces that reduce runoff.

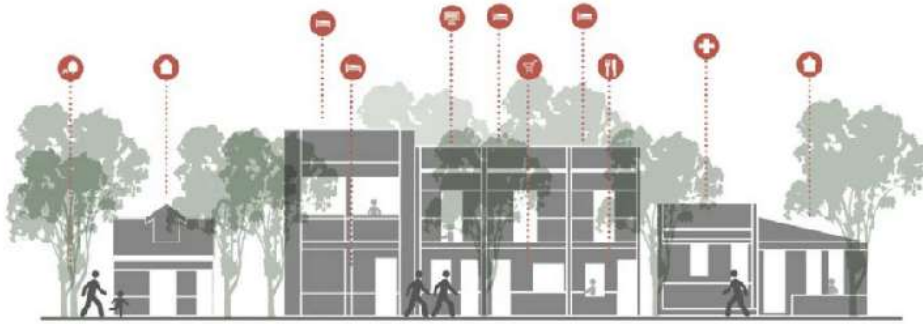
<sup>1</sup> The Road terms chosen are focused on design, they are equivalent to the terminology used under the *Roads Act 1993* of main roads, highways, freeways, controlled access roads, secondary roads, tourist roads, tollways, transitways, state works etc.



## Retail

Shops | Cafés, restaurants and bars | Cinemas | Fitness

The heart of a community is often found near its primary shopping areas, from local main streets, traditional shopping strips, pedestrianised shopping areas, or centre-based shopping complexes. Some communities have a variety of these types of uses, which can act as local or regional commercial anchors.



**Figure 7 – Land use**

A variety of land uses will contribute to an interesting and vibrant streetscape. Land use and scale decisions need to be closely considered and integrated.

## Environmental

The environment encompasses both the natural and built environment. The natural environment includes the natural ecosystems and habitats, public parks, open spaces, watercourses, bushlands, wetlands, ecosystems that support a diversity of habitats for an array of flora and fauna species. Natural areas also provide refuge for residents, as places of serenity, reflection and recreation.

The built environment refers to the design of an area including the building height, density, massing and architectural style. The built form of a community influences its physical character and can define streets and public spaces with a combination of active and passive frontages. The interface is the link between public spaces and publicly accessible buildings. The combination of natural, built environment and the interface between these two contributes to the local character of an area.

## Configuration

Arrangement of uses | Amenities | Buildings

The way different uses, amenities and buildings are arranged and configured contributes to character. Configuration can occur at a neighbourhood level, or at the smaller block, street or building scale.

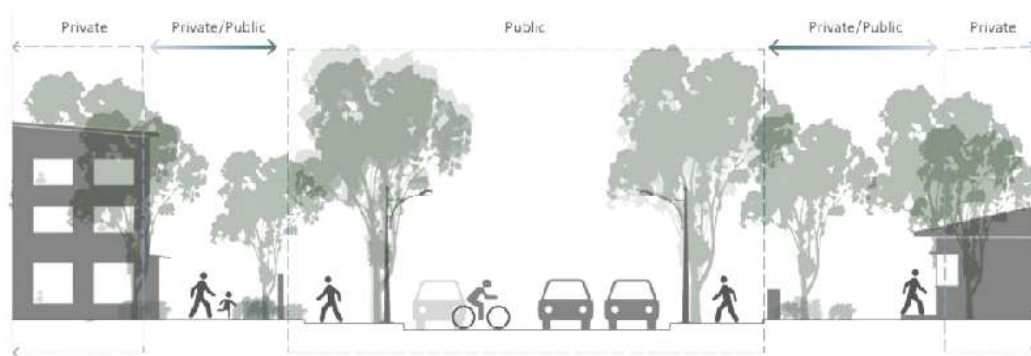
The careful configuration of uses, amenities and buildings are important in growth areas as being able to co-locate complementary and compatible uses improves connectivity, accessibility and vibrancy.

## Public/private domain

It is important to understand the interaction between the public and private domain space, which connects the building and street. It is what can be seen from the street and includes:

- front façade of buildings, fences, space between street boundary and building (front setback), front gardens and landscaping, areas on view – front facades, verandas, balconies, entry points and designation of semi public/private spaces.

The public and private domain is not in public ownership, however given its visibility to the street, it contributes to the look and feel of a place.



**Figure 8 - Public and private domain**

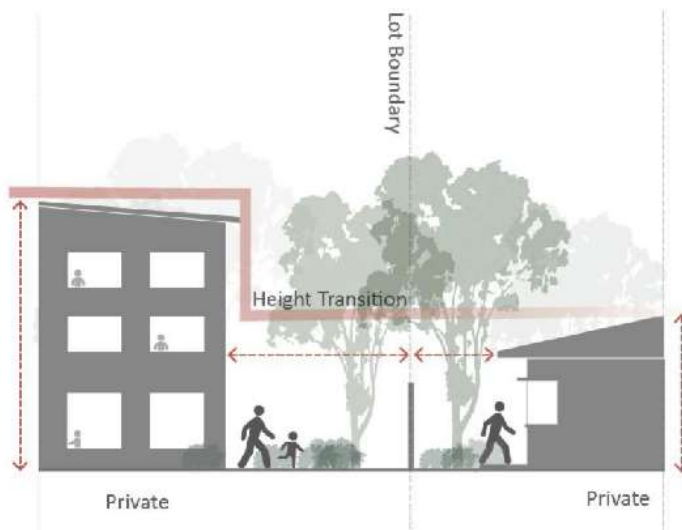
### Density / Height

Low density/height | Medium density/height | High density/height

The density of an area influences the types of housing, demographics, transport options, active frontages, access to public open space and infrastructure.

The first step when planning for changes to density involves consideration of local context, land use and function, landform, landscape, open space, infrastructure, identity and demographics, and the desired future character of an area. Densities should be increased in locations that encourage community benefits and design excellence, while minimising potential impacts. Building density and massing should also be flexible to allow for the changing needs of a population.

Building heights influence character and the pedestrian experience. They must be balanced with building densities and massing to reduce impacts on their surrounds. Building heights should aim to be integrated to achieve compatible and context-sensitive development.



**Figure 9 - Height transition**

*The height of buildings impacts the surrounding character of a place. How tall buildings are, how much variation there is between buildings and the means of transition, will directly impact how a place is experienced from street level.*

### Interface and transition

Active frontages | Passive frontages | Public-private domain relationships | Height-to-width ratios | Setbacks

The relationship of buildings to each other, to streets, to public open space has an impact on the character and atmosphere of a neighbourhood. Active street frontages along main streets can create a rich street scene and cultural exchanges where buildings contribute to the life of a place.

Passive frontages relate to more private uses that don't activate street life. Building setbacks from streets and footpaths impact the sense of enclosure and definition of a street. Context-sensitive transitions between different types of built form, building heights and relationships, heritage and new buildings are also important to local character.

### Open space

Parks | Plazas | Playgrounds | Community gardens | Cemeteries | Courtyards | Front gardens | Back gardens

An integrated public open space network influences sustainable communities, provides economic, environmental and social benefits. These are spaces for gathering, memorial, celebration and active and passive recreation. Public open space provides a ratio of buildings to garden area with exotic or native species, edible and biodiverse plants.

Private open space includes courtyards, front yards or back yards that can support community interaction and foster stronger relationships between neighbours.

### Comfort

Sunlight access | Lighting | Shade | Sightlines | Microclimate | Protection from rain and wind

Comfort of a neighbourhood is influenced by environmental design principles, sunlight and shadows. Comfortable places contribute to the enjoyment of the public domain, as influenced by microclimate, which refers to local environmental conditions such as local bodies of water, seasonal changes, local wind patterns, or shade provided by mature trees. These elements influence the 'feel' of a community.

### Active transport

Walking | Cycling | Skateboarding | Scootering

Active transport promotes increased sustainability, personal wellbeing and healthy active lifestyles. Safe networks for pedestrians, cyclists, skateboarders and the like require local footpaths, trails and linkages to be integrated into regional networks. Places must be walkable, permeable, and offer active transport options.

### Topography

Landforms | Views

The natural environment, slope and contours of the land determine the relationship of the buildings, land uses and open space. They provide views that can be defined by the axis of a street, sweeping views across a park or open space, or distant outlooks of the local area, iconic buildings or surrounding region from a high point of elevation.

### Tree canopy

Street trees | Private trees | Shade

The tree canopy provides environmental, aesthetic, cultural, economic and personal benefits. It can reduce heat island effect, foster increased biodiversity and provide shaded areas for refuge from the sun. Regardless of whether trees are in public or private ownership, a tree canopy can foster a greater sense of place and enhance public space.

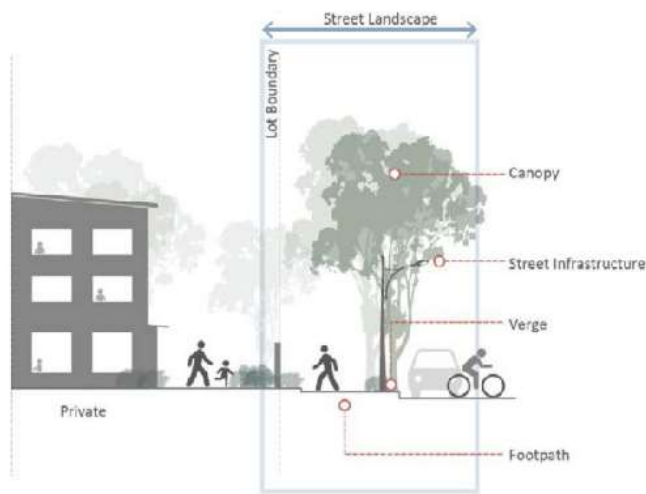


Figure 10 - Street landscaping

The **landscaping** of a street including its vegetation plays a key role in its character, as well as functioning to mitigate heat island effects. The species choice and quantity; location on a street; and its interaction with surrounding features, will all contribute to the character of an area.

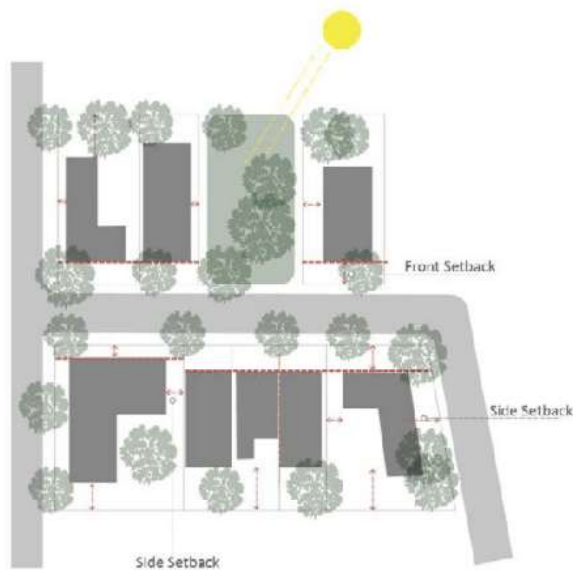


Figure 11 - Space around and between buildings

The **space around and between buildings** is also important to the character of a place. Elements such as how much, and the relationship between public and private open space; the permeability of open space versus the quantity of hard surfaces; will contribute to how a place is experienced.



### Step 3 – Examine different sources of information and map local character

Existing information and documents that provide further information on the area should be used when undertaking a character assessment. Understanding the history and series of changes that have created a place can inspire and guide future decisions on the extent of change that can be accommodated.

The different sources of information that can be examined include: local population data, demographic data, local records, visual landscape studies, urban design studies, architectural studies, retail and employment land audits, material characteristic studies, Aboriginal history, local history, heritage studies (Aboriginal culture and non-Indigenous), historic maps or photographs, census records or engagement with the community to obtain local knowledge through social networks or community groups. Consulting with appropriate government or industry partners may also assist with gathering more information.

This list should be considered as a starting point; the more information considered, the richer the understanding of an area's story.

Having a complete picture of an area and a community's story will bring about clear patterns and opportunities for describing the existing character and setting the desired future character.

### Step 4 – Setting desired future character

This toolkit outlines three characterisations which provide a high-level indication as to the extent of change that an area can accommodate. Mapping these characterisations as part of a character overlay could be supported by a local character statement that provides more specific detail and will inform environmental planning instruments. The characterisations are:

- Change
- Enhance
- Maintain

Strategic plans should be considered when determining the characterisation, as some areas may already be earmarked for a level or change or protection. These characterisations may evolve, due to changes in built and natural environment or the people that inhabit the space. Therefore, regular reviews are important.

### Change character

These are areas where the desired future character can be achieved with a level of change, perhaps because of proximity to major infrastructure. Change should incorporate the activities and attributes that are valued by the community, mindful that how the area will look and feel in the future is likely to evolve, in some cases significantly. As the area changes it should still be identifiable by its community because it has incorporated the valued aspects of that place.

Earmarking an area for change requires consideration of the degree of change and how change will be facilitated through the planning framework. The change should align to the regional or district strategic plan and be identified in the 20-year vision of the local strategic planning statement.

#### Case study – Thornton Housing Estate, North Penrith NSW

Thornton Estate is a Landcom development of 2,000 residential dwellings with some commercial and retail floor space. It transformed land previously used for aviation and a former cricket ground. The redevelopment of the site represented a change in the character of the area while responding to existing natural and special features.

The site, originally owned by the Department of Defence, required LEP changes allowing a mix of residential, commercial and industrial uses, with the site being identified as a key opportunity for transit-oriented development. It was identified in the Penrith City Centre Strategy and Vision documents. Landcom purchased the site in 2009, and the Concept Plan was approved in 2011.

The design of the estate established a village-style character, with street trees, pedestrian links and visual connections to open space and key landmarks such as the Blue Mountains. Unique elements have developed its character, including a canal which forms a central feature within the estate, complemented by stylistic bridges and walkways, but also functioning to capture and treat run-off to prevent contamination of downstream waterbodies and mitigate flooding issues. This is an example of how an area that



Figure 12 - Thornton Housing Estate, North Penrith NSW

was earmarked for change, developed features unique to the area and created a character of its own by responding to its natural environment, providing a good land use mix and being located near public transport.

### Enhance character

These areas may have a desired future character that involves intensifying, improving or increasing the quality and experience of the area. This enhancement should be compatible with existing and future land uses, predominant built form and scale. Change could occur in these characterised areas but is likely to be incremental with many existing elements remaining.

#### Case Study – Ballast Point Park, Birchgrove

Ballast Point Park in Sydney's Inner West is a former Caltex fuel and oil distribution point, which closed in 2002. Sydney Harbour Foreshore Authority (now Property NSW) listened to the strong advocacy from local residents for the creation of a public park, despite the site originally being flagged for medium density residential development.

The closure of the Caltex hub presented an opportunity for the former industrial site to be converted into a 2.8-hectare waterfront park. Ballast Point Park was completed in 2009 and recognises the industrial past by reinterpreting heritage, repurposing the former industrial structures and celebrating the site's layered history.

The former industrial use of the site meant that a return to the "natural" layer was impossible. Therefore, the masterplan, led by McGregor Coxall, proposed to enhance the site's industrial character and fabric. Consequentially, many of the large oil storage tanks remain and remnants of other industrial artefacts can be found in the landscape, such as the rubble of Caltex structures that fill gabion cages along retaining walls.



Figure 13 – Ballast Point, NSW

Through its design, the park responds to the different layers of history, revealing the local character of this site. The Park draws on the site's long Indigenous history, given the Aboriginal name Walama, meaning "to return"; and invokes meaning from its past use as a quarry for ship ballast. Public art also enhances the ability of visitors to connect with the site's past.

Ballast Point Park draws on the character of the existing built environment and surrounding land use to enhance the experience of the area. It generates new character from the industrial past, referencing the local area's "working class" background. The park is a refuge to locals, a destination for visitors, and a memorable experience for first time visitors. The design relies on the entire park being a site for play and adventure and in doing so, repurposes the area for future populations to enjoy.

This is a case study by GANSW, for more information, visit:  
<https://www.governmentarchitect.nsw.gov.au/resources/case-studies/2019/01/ballast-point-park-walama-birchgrove>

### Maintain character

These areas are to be kept largely the same with a desired future character that doesn't envisage much change. Some of these areas may be affected by other factors that limit change or strongly influence the character for an area, for example bushfire-prone land. Methods of maintaining character may involve retaining the built form, landscape, land use, movement and development standards.

The primary difference between the maintain characterisation and a heritage conservation area listing is that heritage and conservation listings have an established international frame of reference (ICOMOS/Burra Charter).

Maintain character does not mean change cannot occur. Change will likely be necessary to retain the vitality, viability and significance of the place. The amount of change should be guided by whether the attributes that warranted the main characterisation will be retained.

Any change will likely be minimal and be consistent with the valued elements of the place.

#### Case Study – Orange, NSW

Orange, in the Central West of NSW, is a key regional centre distinguished by its historic streetscapes, picturesque rural setting (particularly in Spring and Autumn), thriving fruit growing and wine industry, along with its gourmet restaurant and café culture. These characteristics have seen the region grow into a flourishing food capital, coupled with a rich mining history.

In recent years, Orange has experienced some significant changes, including business closures and major retail anchors leaving, impacting the atmosphere of the town. The proposed revamping of retail buildings is lengthy and uncertain. The higher cost to rent in the CBD has constrained the traditional fine grain retail which is a key aspect of the town's local character.

Orange CBD is shifting from retail and shopping to restaurants and cafes. To maintain its vibrant CBD character, planning is encouraging and promoting an intended mix of retailers and establishments that recognise the community's values and the atmosphere and desired future character of the CBD.

Through planning controls and permissibilities that reflect the strategic vision, Orange City Council is working to manage the natural change stemming from the evolution from retail, to ensure that the local character that the community wants to maintain is not impacted.



Figure 14 - Orange, NSW



## Step 5 – Producing a character assessment

### Mapping local character

Mapping local character would likely accompany a narrative of where the area has come from, where it is headed and what makes the area unique.

One of the most useful and meaningful ways to describe and analyse local character is to draw it. Illustrations, maps and diagrams synthesise, analyse and communicate the character of an area - effective during the character assessment stage and development of the local character statement. Often drawings describe how a place changes or is informed by people who use it and the various social, natural, built and economic influences - as well as the historical use and development of an area.

Plans can describe the patterns of built form and the spatial context through:

- mapping the topography, drainage, circulation patterns, vegetation and density of development sections and 3-dimensional forms (this seeks to analyse the 3-dimensional nature of place).
- mapping and using plans and diagrams to overlay various attributes to discover patterns and opportunities to either change, enhance or maintain the existing character.

Mapping an area can assist with documenting observations identified in step 1 and 2 and adds a visual element which enables a clearer description of character.

### Character assessment

The five steps will assist in identifying existing local character and setting the desired future character for an area. The character assessment can be included in a local character statement or be used to inform council plans, statements or strategies. With the varied timing of preparation and review of these plans the character assessment may feed into the plans in a non-linear order. Please refer to the figure below.

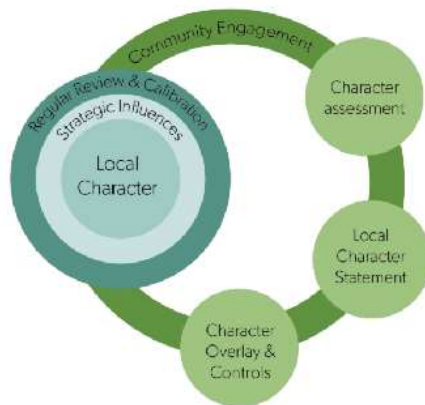


Figure 15 - Local character review

The Local Character Review will likely evolve as plans evolve. For example, the first steps may be to identify what is of value to the community and the current physical and natural features. The character statement will then move from describing the existing character to a vision of how the place will be in the future. After a statement has been developed, the implementation of local character can begin to be translated into the LSPS, LEP, LHS and/or DCP.





## ***Part 3 – Integrating local character***



This section outlines how to incorporate the character assessment into the planning framework.

## Articulating local character

Identifying and articulating local character provides a written description of intangible and tangible values and characteristics of a place. By describing the way, a place looks and feels and the valued elements in the public realm and private domain, it can be a reference point for future planning decisions. Councils can choose to describe their present and future local character in a local character statement.

Local character statements can crystallise a council's and community's understanding of an area's local character. Where these statements are based on the principles of good design they can help to:

- contribute to the development of objectives and controls for an area that are aligned to the community's aspirations.
- allow high quality responsive design and a good fit between place and site design.
- improve visual and physical connections with natural features and historical patterns of the area.
- calibrate decision-making to not only the local character but the strategic context for an area.
- recognise the community's role in planning.

When undertaking a local character statement, the following should be considered:

- Does the statement identify the local area, describe its existing character and set the desired future character?
- How has the community been involved in the statement and the description of the existing and desired future character?
- Do zoning and development standards need to be adjusted to reflect the desired future character?
- Do development controls need to be adjusted to achieve the desired future character? Will these be performance-based or prescriptive?
- How can outcomes be tested to ensure development, land use activities and associated works will deliver on the desired future character?

When, how and where this statement sits is generally at the discretion of governments; however, state environmental planning policies, LEPs and DCPs become more technical as they focus on delivering character rather than describing it; they are generally not the best place to include a statement.

Where a council decides to not introduce local character statements, character assessment can be used to directly inform local plans, statements and strategies.

## Translating the local character statement into a plan

The character assessment and desired future character articulated in local character statements should inform the objectives, standards and controls within local plans that guide future development. Plans may need to be updated to align to the community's local character aspirations. Many character elements relating to the built environment can be quantified into development controls. The local character statement is a product that comes out of the local strategic planning statement and the statement can input into the review of the Local Environmental Plan to inform development outcomes.

Different aspects of local character will need to be defined in various statutory plans. For more direction on how to draft development controls to set urban design objectives refer to Better Placed, available via the Government Architect NSW website.

While Part 3, step 2 of this guideline is focused on character assessment it can also be used to undertake a gap analysis of development controls to ensure requirements align to the character aspirations of the community.

Once a council's plans have been updated to reflect local character, additional guidance and education may be needed for an area's community to further illustrate how the adopted character can be achieved. This additional material can be useful in communicating how the future character may be delivered to community and those proposing development.

## Review

Character statements need regular reviews to reflect the current values of the community and align with the strategic planning for an area.



## ○ **Part 4 - Conclusion**



## Summary

This guideline has sought to impart an understanding of what local character and place is, why it is important, and how it fits into the planning system.

The guideline has provided:

- information on what contributes to and shapes the context of local character and place.
- tools to examine the character of an area through qualitative assessment.
- character identification techniques through the local character wheel.
- engagement techniques for exploring character to use with your community.
- mechanisms to classify existing character and set the desired future character.
- suggestions on how to support local character through the planning framework, including decisions about specific provisions and controls related to local character.

This guideline will help support the work that councils are already doing to bring about the benefits of change in neighbourhoods, cities and regions to meet the aspirations people have for their places.



## Attachment A – Local Character and Place Guideline and plan interactions

The following provides an overview of how character interacts with existing strategic and statutory plans.

Figure 20 - Character interaction with existing strategic and statutory plans

Guideline/plan/statement	Purpose	How the Local Character and Place Guideline interact
<b>Regional strategic plan</b>	Set the stage for housing, jobs, infrastructure, and a healthy environment.	The regional strategic plan should be used as a reference to understand the character of the broader region and to determine the strategic direction and priorities for an area which should influence the level of change that needs to be accommodated within an area.
<b>District strategic plan (in Greater Sydney)</b>	Bridge the gap between regional and local planning. They plan for the district's infrastructure, liveability, productivity, and sustainability.	District strategic plan should be used as a reference to understand the character of the broader district and to determine the strategic direction for an area which should influence the level of change that needs to be accommodated within an area.
<b>Community strategic plan</b>	Identify the main priorities and aspirations of a community, providing a clear set of strategies to achieve its vision for its area.	The guideline helps to provide a vernacular for identifying and describing the current and desired future character, which aligns with the community strategic plan as it is developed within the integrated planning and reporting framework.
<b>Local strategic planning statement</b>	These set out the 20-year vision for land-use in a local area, including the special character and values that are to be preserved and how change will be managed.	<p>The statement will set a 20-year vision for an area and should have regard to local and desired future character. This will be supported by the toolkit which will provide a vernacular for identifying and describing character.</p> <p>A local character statement could inform the LSPS, which could include a priority and/or action that</p>

Guideline/plan/ statement	Purpose	How the Local Character and Place Guideline interact
		requires a character assessment for a particular area to be changed, enhanced or maintained.
<b>Local housing strategy</b>	These are a council's response to how the housing components of district and regional strategic plans will be delivered locally. They are also informed by the community strategic plan.	<p>Local housing strategies should consider local and desired future character, using the toolkit to provide a vernacular for identify and describing character and its implications for housing within a local government area.</p> <p>The local character statement could inform the local housing strategy and provide direction as to what areas will be changed, enhanced or maintained.</p>
<b>Local environmental plan (LEP)</b>	A legal instrument that establishes through zoning and development standards how and where development should occur.	Review the land-use zone and the permitted scale of development in line with the local character characterisation and defined desired future character to guide development that is in keeping with the community's vision. Opportunities for local character overlays are also possible to identify character areas, desired future character and opportunities for tailored provisions.
<b>Development control plan (DCP)</b>	Provides detailed planning and design guidance to support the planning standards in the LEP.	Opportunity to provide detail on an area's local character and desired future character and development controls that deliver this.
<b>Better Placed</b>	This policy defines good design process and outcomes and provides seven objectives for considering the design of the built environment. It can be used and referenced by government, community, architects, landscape architects, planners, urban designers, developers, engineers,	Development of objectives to consider in the design of the built environment to ensure buildings, places, and spaces are contextual and that they consider present and desired future character. An important part of local character is placemaking which is the focus of Better Placed.

Guideline/plan/ statement	Purpose	How the Local Character and Place Guideline interact
	builders, peak bodies, and business.	Outlining an iterative design process to help integrate an understanding of existing places into how developments are carried out.
<b>Draft Good Urban Design Guide</b>	This policy looks at integrated design policy for the built environment of NSW and provide further detail and guidance on how to achieve good urban design outcomes.	The guide acknowledges good urban design practice and advocates ways of working that unite differing needs and aspirations as well as offering techniques for evaluating urban design processes and outcomes.
<b>Draft Urban Design for Regional NSW</b>	This draft policy presents strategic advice on how we can work together to achieve good urban design in regional areas and seeks to support and complement the regional strategic plans.	The guide understands and identifies the urban design priorities for regional NSW. It discusses how these priorities are crucial to ensure good outcomes and that projects respond to community needs.
<b>Draft Designing with Country</b>	This is a mapping project to assist both Aboriginal and non-Aboriginal communities share knowledge about Aboriginal places as well as places of shared cultural and heritage significance.	The Sydney Ochre Grid seeks to map country, update recorded history, influence planning and design, recognise living culture, nurture duty of care, improve education and improve community health and wellbeing of Aboriginal communities.
<b>Design Guide for Heritage</b>	This policy outlines principles to guide a broad range of design work in heritage places in NSW.	This guide seeks to ensure we have good design in heritage places and aims to make the community understand the value and opportunity in our existing built environment to ensure heritage places are conserved, maintained and enhanced through good design.
<b>Draft Greener Places Guide</b>	Greener Places is a draft policy to guide the design, planning, and delivery of green infrastructure in urban areas across NSW.	The policy aims to create a healthier, more liveable, more resilient and sustainable urban environment by improving community access to

Guideline/plan/ statement	Purpose	How the Local Character and Place Guideline interact
		recreation and exercise, walking and cycling connections.
<b>Place Analysis Tool</b>	A place assessment can be conducted to identify key site information, followed by analysis of pre-existing factors that generate a place, these factors include: social, economic and environmental factors (natural environment and built environment). A place analysis allows local government to determine the impacts of future development on a place.	A template or framework is provided for local government to tailor to their context. The inputs of numerous experts and the people that live and use a particular place are required to build this understanding. This then informs how a place can be shaped through urban design and planning.
<b>Low Rise Medium Density Design Guide</b>	<p>The Low-Rise Medium Density Design Guide for Complying Development provides consistent design and development standards for low rise medium density residential dwellings proposed under complying development.</p> <p>This includes terraces, manor homes and dual occupancies.</p>	<p>The Guide requires low rise medium density to be in the built form, articulation and scale that relates to the local character of the area and the context.</p> <p>Before a certifier can approve a complying development certificate for a dual occupancy, manor house or terraces the application must be accompanied by a Design Verification Statement prepared by a qualified designer, which demonstrates how the proposal contributes to the character of the local area.</p>
<b>Low Rise Medium Density Design Guide for DAs</b>	The Department has prepared a design guide for DAs, to assist councils and applicants when assessing and designing manor houses and terraces as a DA until they develop their own Development Control Plan.	This Design Guide for DAs provides councils with best practice controls and design standards to ensure developments are well designed and will fit into the local character of the area.

## Attachment B – Considerations for recognising local character areas of change

### Purpose of this attachment

The questions in Attachment B serve as a complementary resource to the Local Character and Place Guideline by providing additional considerations for recognising local character in areas of growth and change. These considerations are specific to the character themes of Part 2, Step 2 of the Guideline.

The questions are intended to assist with the public engagement process by translating technical planning considerations into simple questions that are easy for the public to understand, thereby assisting to accurately draw out community values and aspirations. This Attachment also includes additional considerations for some character themes that are specific to greenfield areas, with particular emphasis on heritage, biodiversity, new infrastructure, large-scale open space and recreation.

### Three elements of local character in areas of growth and change - Social

#### Public space

Parks | Plazas | Footpaths | Museums | Libraries

Key considerations for public space are:

- What are the opportunities for public space in your community?
- What are the opportunities to participate in play/recreation?
- What do you do in your public spaces? Do you use them actively or passively? Do you see this changing in the future?
- How do members of your community interact with each other in their public spaces?
- What is the condition of public spaces? Are they of good quality, well maintained, and used to their full potential? Are they overused or too busy?
- How accessible are the public spaces in your community?
- How do public spaces in the community appeal to children, youth, and seniors?
- How is the access to and the feeling of safety within public spaces affected by the time of day or year?
- Which spaces are pet-friendly?
- How could public spaces in your community be improved (e.g. Increased tree canopy)?



## Heritage and culture

Built Heritage | Aboriginal culture | Arts and festivals

Key considerations for heritage and culture are:

- What is the history, heritage, and culture of your community, and how is it recognised and celebrated?
- What are the local heritage and cultural buildings and landscapes? Do they have a role to play in the community's vision for the future?
- What are the predominant architectural styles in your community? What architectural elements characterise your community?
- Which spaces are used for art, festivals and celebrations?
- How have Aboriginal people occupied this area in the past and how do they use it now?
- What traditional, historical and contemporary links do Aboriginal people have with the area?
- Which features or landscapes in the area have significant cultural value to Aboriginal people?

Additional considerations for heritage and culture in greenfield areas are:

- What cultural, historic or heritage elements make your community unique and how would you like to see them preserved, celebrated and commemorated?
- What cultural elements would you like to see created in your area?
- How would you like to see spaces in your community be used for art, festivals and celebrations?

---

## Safety

Passive Surveillance | Wayfinding | Lighting

Key considerations for safety are:

- What about your community makes the streets and public spaces feel safe, accessible, and vibrant?
- How are streets/public spaces used at different times of the day and in different seasons?
- Is the area safe for everyone, whatever their age, gender, ethnicity, religion, sexuality, or disability?
- Where are the areas in your community where derelict property, crime, and antisocial behaviour affect public safety?

Additional considerations for safety in greenfield areas are:

- What safety mechanisms should be created?
- Where should there be adequate lighting, public surveillance, and other safety mechanisms?

- What additional features would make the area safe for people to live in?

---

## **Housing**

Housing diversity and choice | Affordability | Ageing in place

Key considerations for housing are:

- What are the housing choices available in your community that allow people to stay in the area as their needs change, or as they grow older?
- What is the range of housing tenancies (rental, freehold, etc.) available in your community, to meet the different income needs of residents?
- What is the range of housing sizes and price points in your community?
- Are there opportunities for younger generations to access housing in the area?

Additional considerations for housing in greenfield areas are:

- What housing choices and design preferences would you like to see available in your community?
- How should the housing choices address a diverse range of housing needs?
- How should housing affordability be addressed in your community and for whom?

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## **Education**

Early childhood | Primary schools | High schools | Post-secondary and universities

Key considerations for education are:

- How are local schools regarded in your community? What could be improved?
- How do local schools play an active role in your community?
- How do your local schools provide other community functions? How could their recreational space be better utilised by the community?
- How do most students get to and from the schools in your community? Do the local schools cause any congestion?
- Do people move to the area because of its schools and the opportunities they provide?

---

## **Community facilities**

Community centres | Libraries | Sports facilities | Childcare | Youth services | Seniors services

Key considerations for community are:

- What community facilities are most highly valued? How could they be improved?

- What community facilities are missing or under-utilised?
- How do community facilities cater to everyone, whatever their age, gender, ethnicity, religion, sexuality or disability?
- Are there any local community facilities that serve people outside of your community?
- Where are community facilities located? Are they within a reasonable distance of most homes and easily accessible?

Additional considerations for community facilities in greenfield areas are:

- What types of community facilities would you like to see in your community?

---

### **Access**

Connectivity | Site access | Service vehicles

Key considerations for access are:

- How easy is it to get to your community from other areas, and to get to other areas from your community?
- How easy is it to move within your community?
- Is pedestrian access to homes and businesses easy and safe?
- Are the streets and public transport well sign-posted? How could wayfinding and signage improve connectivity?
- How do service vehicles access where they need to go?

---

### **Public transport**

Trains and Metro | Light rail | Buses | Ferries

Key considerations for public transport are:

- What are the public transport options in your community? Do these options take you to where you need to go?
- Is your community well connected to other areas?
- Are public transport services frequent and reliable? Are they overcrowded?
- Are bus stops and train stations in convenient places and within walking distance of people's homes?
- Are bus stops and train stations well equipped with toilets, lifts and bicycle parking?

Additional considerations for public transport in greenfield areas are:

- What public transport services would you like to see in your community?
- How would you like your community to be connected to other areas through public transport?
- What facilities should bus stops and train stations have – such as toilets, lifts, and bicycle and car parking?
- How and where should walking and cycling be given priority over cars and other traffic?

## **Leisure**

Activities | Events | Passive recreation | Natural features | Sports

The key considerations for leisure are:

- What are the leisure options in your community? Does your community host regular markets, festivals or events?
- How do different demographics within your community recreate?
- How do people travel to leisure uses in your community? Are these areas accessible?
- What type of nightlife exists in your community? Are there many options?
- Are there any leisure options which are needed in your community?
- Is new infrastructure required to facilitate passive recreation, particular sports or activities?

Additional considerations for leisure in greenfield areas are:

- What retail and leisure options would you like to see in your community?
- How should leisure activities influence development in your community?
- What nightlife options should be planned for your community?

## **Three elements of local character in areas of growth and change - Environment**

### **Public/private domain**

Streets | Waterfronts | Footpaths | Facades

Key considerations for public/private domain are:

- Which spaces provide opportunities for people to meet, gather, and interact?
- How do people from across the community mix together and get to know each other?

- 
- How do local streets and public/private spaces make being in or passing through your community a pleasant (or unpleasant) experience?
  - How do trees contribute to the amenity of streets and public/private spaces?
  - What is it about the local streets and public/private spaces in your community that make them safe, comfortable, accessible, inclusive and vibrant?
  - What would make your streets and public/private spaces better?
  - Which features help people find their way around?

Additional considerations for public/private domain in greenfield areas are:

- What features should be considered when planning for a future community that would improve connectivity between private and public spaces?
- How should public/private spaces in the community appeal to children, youth, seniors and all members of the community?

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### **Topography**

Landforms | Views

Key considerations for topography and views are:

- What are the natural landforms that create high points and low points in your community, and how do they contribute to local character?
- What are the important views in your community and how can they be protected or improved?
- What are your concerns about views and their potential conflict with future development?

---

### **Open space**

Parks | Plazas | Playgrounds | Community gardens | Courtyards | Front gardens | Back gardens

Key considerations for public open space are:

- Where are the opportunities for people to use open space?
- Does quality open space exist within walking distance?
- What do you value about the natural spaces in your community?
- Are there important environmental features, systems or habitats that need to be protected?
- How are natural spaces affected by negative features such as excessive noise or poor air and water quality?
- How does green infrastructure enhance the experience of open space?



- What opportunities exist for play in your local open spaces?
- Are open spaces accessible to everyone, whatever their age, gender, ethnicity, religion, sexuality, or disability?
- Which spaces are harder to enjoy at night, in different seasons, or in bad weather? Why?
- How would you like to see open spaces designed to be pet-friendly?

Additional key considerations for private open space are:

- How do you use private open space in your community?
- Which private open spaces are important to your community?
- Do you build connections with neighbours in any private open spaces? If so, which ones, and how do you use them?

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### **Tree canopy**

Street trees | Private trees | Shade

Key considerations for tree canopy are:

- How do people feel about the trees in your community?
- Are there many mature trees in your community? Do they provide shade?
- Which areas in your community are in need of more trees?
- What is the condition of trees in your community? Are they healthy?
- Are there ways the community can help maintain trees or open spaces?

---

### **Density/Height**

Low density/height | Medium density/height | High density/height

Key considerations for density are:

- What development traits contribute to 'density done well'?
- What development traits contribute to 'density done poorly'?
- What types of homes are in demand here? Detached homes? Town houses? Walk-up apartments? High rises?
- Where do you think higher density is most suitable? How tall are most buildings here?
- Does this vary in different areas of the community?
- How do buildings of varying heights fit in with each other? How could this be improved?

- What do you like or dislike about building heights in your community?

Additional considerations for density in greenfield areas are:

- Which areas could support increased density?

---

### **Configuration**

Arrangement of uses | Amenities | Buildings

Key considerations for configuration are:

- What contributes to the compatible arrangement of uses, amenities, or buildings in your community?
- What contributes to the incompatible arrangement of uses, amenities, or buildings in your community?
- Which buildings do the community value?
- What do buildings look like? When were they built?

---

### **Interface**

Active frontages | Passive frontages | Public-private domain relationships | Height-to-width ratios | Setbacks

Key considerations for interfaces are:

- How do buildings engage with streets, both at street level and upper levels?
- Are there buildings that integrate landscaping, green rooves, or green walls into their designs?
- Are there large blank walls adjacent to public spaces that could benefit from an activated use?
- How do building setbacks affect how people feel in streets and public spaces?
- What are the transitions between different land uses in your community?
- What are the transitions between detached housing and denser types of housing?
- What are the transitions between buildings of different heights?

Additional considerations for interfaces in greenfield areas are:

- How do you think multi-use buildings could work in your area?
- What types of activity would you like to see occur in multi-use buildings?

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### **Active Transport**

Walking | Cycling | Skateboarding | Scootering

Key considerations for active transport are:

- Where are the routes for walking and cycling, and do they meet the needs of those who are less mobile?
- Do routes provide obvious and direct links with the places that people want to go? How can this be improved?
- Are routes good quality, attractive, and pleasant to use?
- Do routes feel safe to use at different times of the day and at all times of the year?
- How are walking and cycling given priority over cars and other traffic? How can this be improved?
- What are the barriers to walking and cycling? How can active transport infrastructure be improved?

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### **Comfort**

Sunlight access | Lighting | Shade | Sightlines | Microclimate | Protection from rain and wind

Key considerations for comfort and safety are:

- What about your community makes the streets and public spaces feel comfortable, accessible, and vibrant?
- How are streets/public spaces used at different times of the day and in different seasons?
- Where in your community is sunlight most restricted?
- Where in your community does the built environment restrict sightlines?
- Where in your community is there shade? Where would increased shade be most beneficial?
- How should future development respond to the need for sunlight, shading and sightlines?
- Does the existing built environment and hard surfaces contribute to urban heat island?
- What strategies are being used in your community to mitigate urban heat island?
- What mechanisms would you like to see introduced to improve protection from rain and wind?

## **Three elements of local character in areas of growth and change - Economic**

### **Local economy**

Economic character | Unique businesses | Business community and networks

Key considerations for local economy are:

- What are the creative/niche businesses, industries, or activities that contribute to the unique local character of your community?
- What is the role of tourism in your community? What draws people to your community from other areas?
- Are there any areas in your community that have a concentration of businesses from a particular ethnicity or culture?
- What factors contribute to a strong and united local business community?

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### **Employment**

Jobs | Major employers | Predominant industries | Regional employment hubs

Key considerations for employment are:

- What are the major local businesses and industries? Do they employ local residents?
- What are the spaces where local businesses can start up and grow?
- Do many locals work close to home, or do they have to commute long distances to work?
- Can residents access jobs locally, whatever their gender, age, ethnicity, religion, sexuality or disability?
- Is your community a regional employment hub that attracts businesses, investment, and workers from outside the local community?

Additional considerations for employment in greenfield areas are:

- Where are the opportunities for new businesses to locate in your community, and in which industries?
- What are the kinds of jobs that future residents are likely to need in the local area, and where could these jobs be provided?

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### **Retail**

Shops | Cafés, restaurants and bars | Cinemas

The key considerations for retail are:

- Where do you do your shopping? What are the retail options in your community?
  - Where are the specific retail areas in your community that are under performing or dilapidated?
  - What are the specialty shops, businesses, cafés, or restaurants that draw people to your community from other areas?
-

- How do people travel to retail uses in your community? Are these areas accessible?
- Is there any housing above shops in your community?
- What type of nightlife exists in your community? Are there many options?
- Are there any retail options which are needed in your community?

Additional considerations for retail in greenfield areas are:

- What retail options would you like to see in your community?
- How should mixed use development (retail, commercial and residential) be configured in your community?
- What are the types of shopping facilities that could serve future residents, and where could they be located?

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### **Road network**

Motorways | Arterial roads | Collector roads | Local roads | Lanes

Key considerations for road networks are:

- What is the most common mode of transport that local residents and workers use? Do locals need a car to travel within your community?
- What areas experience the most congestion?
- What traffic-calming measures are used in your community to make the road network safer?
- What are the unsafe roads and intersections in your community, for cars, cyclists, and pedestrians?
- What impact does traffic have on health and wellbeing in your community?

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### **Parking**

At-grade | Above-grade | Below-grade | Permeable parking

Key considerations for parking are:

- What type of public parking is available in your community, and is this parking located where it is needed?
- Is there enough public parking in your community?
- Is public parking located in safe and secure locations?
- Are there enough bicycle or car share parking options?
- Does every resident need a parking space?

## Attachment C – Government Architect NSW – Advisory Note: Place analysis

### Purpose of this attachment

This advisory note provides a common understanding of place and how it can be shaped through integrating design, planning, and development. The social, environmental, and economic factors of a place explained to how a change in the built environment impact on a locality.



## GANSW ADVISORY NOTE

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# Place analysis

V1. 08/02/2019

**To determine a case for change in the built environment, and the likely impacts of future development on a locality, all social, environmental, and economic factors of a place need to be understood.**

**Input is required from the people that live and use a particular place, and from numerous experts, to build a common understanding of place. This then informs how a place can be shaped through integrating design, planning, and development.**

### A supplement for other documents

This advisory note supplements related documents to support the creation of better places through integrated design and planning – including other Government Architect NSW (GANSW) and Department of Planning and Environment (DPE) publications and NSW Government policies:

- Better Placed
- Greener Places
- Movement and Place
- Local Character and Place
- Good Urban Design
- Urban Design for Regional NSW.

### Scale of application

This document provides an open framework for place analysis that can be applied to projects of all scales. Relevant factors may be considered and analysed with increasing levels of detail as a project develops, but also as a process of ongoing place evaluation. Brief questions are provided as prompts to help establish a balanced understanding of a place to help shape its future through development projects and other interventions.

### Who can undertake place analysis?

The design, development, and ongoing management of places is carried out by many people, including those in government, built environment professionals, developers, and the people that live and use places. Aspects of place analysis can be undertaken by different people for different reasons.

Place analysis should be overseen or coordinated by a lead project consultant/team – typically a coordinating urban designer, urban planner, architect, landscape architect, or similar built environment practitioner – to overlay and translate multiple sources of information into a spatial framework.

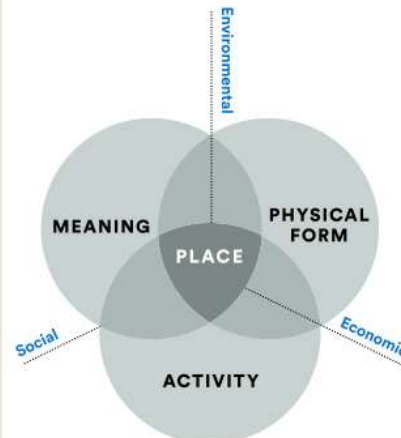
The lead consultant may draw on the input of other experts, specialists, consultants, and the community to provide specific information on different factors where required, depending on the project stage.

### What is place?

Places have a clear and strong identity and character. Places are multi-layered and diverse environments.

'Place' can't be comprehensively defined, but individual places can be described or understood by people in different ways and at different scales. This is because they are made up of many interrelated layers and elements which are generally understood through the following:

- physical form: physical conditions of a place
- activity: use, vitality and diversity
- meaning: how a place is perceived.



Adapted from Canter 1977;  
Punter 1991; cited in Montgomery 1998.

It is important to undertake a comprehensive place analysis to not only determine a case for change, but to build a coalition for what the change is and how it should occur with neighbours, local communities, and stakeholders.

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### Understanding Place

A rounded understanding of place begins with identifying the core site information and by analysing the pre-existing factors that generate a place (understanding the context). This forms the basis for implementing urban design and planning. Factors for analysis are:

1. social factors
2. environmental factors
  - natural environment
  - built environment
3. economic factors.

Detailed analysis of the environmental factors can be undertaken with reference to the urban design elements and their typical design variables (see Figure 1).

### Design process

Place analysis is an important aspect of the discovery phase of the design process. Implementing a good design process will support effective synthesis of skills and knowledge, enabling better decisions.

Some key questions in the design process are:

#### Discover

- How will your site or locality be defined, analysed, and understood?
- How will research and analysis inform your actions?
- What tools, processes, and methods will you employ to objectively evaluate existing conditions?

#### Create

- How will the various inputs and approaches be integrated?
- How will you further develop, refine, and optimise your analysis?

#### Deliver

- How will your solutions and proposals be explored and tested, prior to implementation?

Other considerations are: project definition, brief formation, further analysis/synthesis, engagement, scenario testing, and comparative precedent study. Many of these questions and considerations are outlined in **Implementing Good Design** (GANSW 2018).

### Determining actions

The diagram below and following tables set out the key factors you can use to start analysing and understanding a place. This analysis

can help determine actions required including whether to:

- change
- enhance
- maintain; or
- conserve.

Depending on the project and place, changes over time, development staging, flexible and adaptable approaches are important to explore.

Refer to Local Character and Place Guideline (DPE) for more detailed information.

### UNDERSTANDING THE CONTEXT

SOCIAL	ENVIRONMENTAL	ECONOMIC
Population and people Culture and community History and heritage Politics and governance Place sentiment	Climate Landform and landscape Ecology and wildlife Hydrology and waterbodies Human impacts Built environment	Employment and income Industry and business Resources and value Investment and tenure

### URBAN DESIGN ELEMENTS

LAYOUT	DIVISION	BUILT FORM
<i>The spatial arrangement of public space, services and connective infrastructure including:</i> Movement networks Open space networks (green corridors, waterways, landforms) Utilities and services	<i>The subdivision of land and designation of its use including:</i> Land parcels Ownership Land-use zoning (density, building height, site coverage)	<i>Building types, structures, and their uses including:</i> Street profiles Building envelopes Orientation Function Interfaces Landscaped area

### DESIGN VARIABLES

QUALITY	QUANTITY	SCALE	DISTRIBUTION	DIVERSITY	ACCESS + CONNECTION	MATERIALS + DETAILS
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Figure 1: Factors influencing an understanding of place. Refer to **Good Urban Design** (draft, GANSW 2018) for more detail.

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### Understanding the context

Understanding the context requires an analysis of the pre-existing social, environmental, and economic factors that generate and influence a place. These are a connected system and must be considered as interrelated. They are the inputs to a development project, strategy or plan.

Fill in these tables with relevant information for your place.

#### Place analysis: core site information

<b>Name</b> What is it called?	Place name. Could be a suburb or locality name, etc.
<b>Location</b> Where is the place?	Site address
<b>Scale</b> What is the scale of the place?	e.g. local, neighbourhood, precinct (walkable/cyclable), district, city, region
<b>Context</b> What is the surrounding area?	e.g. rural, urban, suburban, industrial, national park, coastal
<b>Boundary</b> Is there an identifiable boundary? Is there any direct adjacency issue?	Yes/no. What is the zone of influence?
<b>Area</b> What is the measurable area? Does the developable area include/exclude natural conservation areas?	Square km, hectares, square metres
<b>Ownership status</b> What is the land/property ownership status?	Mixed (public/private/multiple owners), public (single/multiple owners), private (single/multiple owners), charity/non-profit
<b>Proponent/management</b> Who is the catalyst for change on the area/land/property?	Land owners, tenants, external proponents, organisations, government, steering committees, etc.
<b>Authorities</b> What are the relevant government and planning authorities?	Federal, state, local government authorities
<b>Stakeholders</b> Who has a stake in the place?	Major landowners, institutions, industries, community groups, cultural groups, etc.
<b>Occupancy</b> Who occupies or uses the place?	Residential population, visiting population, both



BETTER METHODS

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### 1. Social Factors

#### Demographics

##### Population and people

Who lives there and how?

Population (current, historic, future)

People (age, background, household structure)

Health, wellbeing and lifestyle, travel patterns, education

#### Culture and community

How do people associate there?

Cultures, communities and networks, social groups, social institutions, place names, attractions, festivals, events

#### History and heritage

The key themes, events, and traces of the place's history

Social and cultural histories, places of historic and heritage value, Aboriginal and non-Aboriginal

#### Politics and governance

Which people make decisions for the place, and its context, where and how?

Government boundaries, electoral boundaries, governance structures, professional associations, industry groups, community groups, lobby groups and other stakeholders

#### Place sentiment

What do people think about the place?

Satisfaction

Strengths, weaknesses, opportunities, constraints

Needs, aspirations, and desires

Priorities

BETTER METHODS

## GANSW ADVISORY NOTE

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### 2. Economic Factors

#### Employment

What do people do for jobs?  
Where do they work?  
How much do they earn?

Local jobs  
Where people work outside the area  
Income levels

#### Industries and businesses

What industries, goods and services are produced and/or available in the area? And how?

Primary and secondary industries, businesses, retail GDP, productivity.

#### Resources

What is being used/extracted for value and trade in the area?

Natural resources, land-use value – minerals, energy, water, soil, vegetation, habitat  
Agricultural, industrial, residential  
Knowledge resources – research, education  
Technology

#### Investments, ownership, and tenure

Who is investing, owning and using the area for economic purposes? What value is it?

Public, private, non-profit, and other stakeholders  
Major landowners, business or charitable ventures, public infrastructure investments

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### 3. Environmental Factors

#### Climate

What is the climate of the area, context and/or site?

Weather patterns, temperature, prevailing winds, rainfall, humidity, orientation, air quality  
Macro/micro

#### Landscape

What kind of landscapes are in and around the place?

Alpine, desert, plains, riverine, coastal, bushlands, wetlands, etc.

#### Landform

What is the form and make-up of the land?

Topography, topology (valleys, hills, ridges), geomorphology, geology (rocks, soils, above and below ground)

#### Ecology and wildlife

What living things inhabit the area? What do they depend on and what do they provide?

Plants and animals, native and non-native, pests  
Biodiversity, habitat, and ecosystems

#### Hydrology and waterbodies

Where is there water and where does it flow, and connect to and from?

Catchments, oceans, rivers, estuaries, lakes, swamps, creeks, drainage lines, groundwater  
Flooding and flood mitigation, overland low paths  
Drainage infrastructure and patterns  
Water storages, irrigation

#### Human impacts

Describe any ongoing impacts of human activity on the environment

Pollution, contamination, noise, overused/disused areas, erosion, mining, undermining, subsidence, water table changes, urban run-off, erosion, bushfire risk and history (frequency and intensity)

#### Built environment

How have people built up the area?

Consider in terms of 'Urban design elements' – expanded on the following page:  
The Layout, Division and Built form must each respond to the context of a place. The categories of Layout, Division, and Built form are also interrelated, they should be analysed together and considered interactively in design stages. While it is best for an urban designer, urban planner, architect, landscape architect or similar built environment practitioner to undertake this analysis, the following structure helps to outline the series of environmental conditions, and disciplines involved in analysing place to set the conditions for change.



## GANSW ADVISORY NOTE

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### Urban design elements

Urban design actions happen in the interaction with and between the layout, division, and built form.

The urban designer is best suited to analysing or designing within the constraints of layout, division, and built form categories. Urban designers can provide insights, expertise and spatial thinking to develop a rounded understanding of the categories, specific to the project. This requires a synthesis of information, engagement, communication through drawing (maps, sketches, visualisation), iterative and comparative method description, and design thinking.

#### Scale

Cities, suburbs, towns and villages each have to consider the layout, division, and built form in tandem. Their distribution and interrelationships grow in complexity in response to the size of the project.

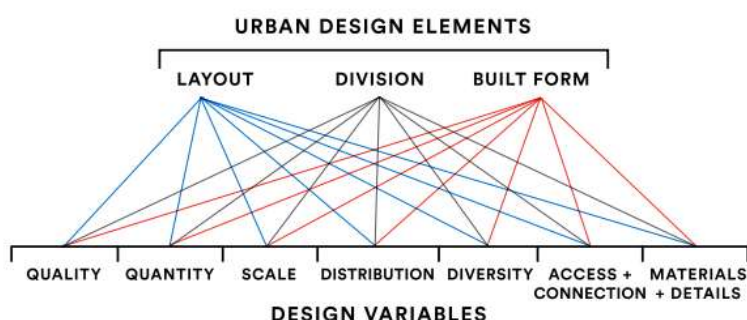
#### Time

It is important to acknowledge how development happens over time. Layout is the most permanent, long-term aspect. Division allows for flexibility and variety of building types that may change over time. Built form changes over more readily and over shorter time periods through replacement.

#### Relationships within and between the elements

The layout, division and built form must each respond to the context of a place. The categories of layout, division, and built form are also interrelated, they should be

Figure 2: Urban design elements are interrelated and should be analysed and understood together



analysed together and considered interactively in design stages.

**Layout** – is the spatial arrangement of public space, services and connective infrastructure including movement networks, open space networks (green corridors, waterways, landforms), and utilities and services.

The layout:

- responds directly to the physical geography [slope, solar azimuth, flooding etc.]
- provides the permeability required for movement of people to, from and through a place.
- forms blocks that through division produce lots – private land titles.
- provides access, light and air to the built form that, in turn, define the public space of the layout.
- includes public space. This is defined in GANSW documents as the combination of public land and any publicly accessible building. They are often located at important points within the layout and provide orientation or focus to the layout.

Public space is the combination of public land, streets, and parks and any publicly accessible building.

Public spaces are:

- open environments (streets, pavements, squares, landscapes, parks)
- sheltered spaces (public libraries, museums, religious institutions, public facilities)
- public critical infrastructure (“green”, “blue”, and “grey” infrastructure, and infrastructure related to transport, energy, and utilities).

**Division** – is the subdivision of land and designation of its use including land parcels, ownership, land use zoning (density, building height, site coverage).

The division:

- Tends to be generic to allow for a variety of building types that may change over time.
- Should be flexible allowing for future subdivision and amalgamation.

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**Built form** – comprises building types, structures and their uses including street profiles, building envelopes, orientation, relationship to topography, function, interfaces (facade) and landscaped area.

The built form:

- Makes up the majority of the built environment.
- Is the generic subject, such as the envelope or setbacks, made specific by architectural design. Their design is architecture not urban design.
- Division and Built form generate density of a place. Generally, more density requires more Layout area and more public space.

### Design variables

The urban designer ensures projects appropriately account for the design variables, particular to a project or strategy. Each of the design variables should be considered as interrelated and effecting or impacting the other. It is important to consider the layout, division, and built form alongside the design variables. The relationships between and across each variable and category should be always in focus for a designer.

**Quality** – The conditions of the elements - physical (or other) state, appearance, working order, amenity.

**Quantity** – The number of and extent of elements in relation to each other.

**Scale** – the size, extent, height and proportion of elements to each other and their context.

**Distribution** – the geographic and spatial distribution and orientation of elements, and their relationships.

**Diversity** – range of amenities and the activities they support, encourage, and generate.

**Access and connection** – where and how elements are accessed and connected.

**Materials and details** – where materials are sourced, what materials the elements are made of, and how they are put together.

### References:

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Montgomery, J. 1998, Making a city: Urbanity, vitality and urban design, **Journal of Urban Design**, 3:1, 93-116.

Urban Design Advisory Service 1998, **Urban Form: An approach for understanding the urban form of regional centres**, Department of Urban Affairs and Planning, NSW.

UN Habitat, **Global Public Space Toolkit: From Global Principles to Local Policies and Practice**, February 2016.

### Further information

For more information see Better Placed: An integrated design policy for the built environment of NSW (GANSW 2017) available on the GANSW website: [ga.nsw.gov.au](http://ga.nsw.gov.au)

### Government Architect NSW

GANSW provides design leadership in architecture, urban design and landscape architecture. In this role, GANSW works across government, the private sector and the community to establish policy and practice guides for achieving good design. GANSW provides strategic advice across design, planning and development to support good policy, programs, projects and places.

### Contact GANSW

GANSW makes every effort to keep its advice up to date. From time to time we will release new versions of these advisory notes. For further advice, or if you think there is information missing, please contact GANSW.

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# ***Discussion Paper – Local Character Overlays***

*February 2019*



We wish to acknowledge Aboriginal people as the traditional custodians of this land. Through thoughtful and collaborative planning, we seek to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

February 2019

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## Implementing local character into Local Environmental Plans (LEPs)

The [Local Character Planning Circular](#) released in January 2018 flagged preparing amendments to the Standard Instrument (Local Environmental Plan) Order 2006 (SI LEP) to establish overlays for additional considerations of local character in areas of significance. Using the SI LEP to give effect to local character strengthens local character and gives it statutory weighting.

The Department's work on local character is based on the sentiment that everywhere has character. Local character is the look and feel of the area and we should consider how it should be managed either to change, maintain or enhance that character. The introduction of local character overlays could be integrated into the broader suite of initiatives around managing change and growth to ensure it occurs within the context of how a neighbourhood looks and feels.

The purpose of this Paper is to outline an option for supporting local character within the SI LEP and to seek feedback on the proposal.

## Local Character and Place Guideline

The [Local Character and Place Guideline](#) outlines what local character and place is, why it is important, and how it fits into the planning system. The Guideline aims to support the work that councils are already doing to bring about the benefits of change in neighbourhoods, cities and regions to meet the aspirations people have for their places.

### Key questions

Do you think the inclusion of a standard approach to local character overlays within LEPs will be effective at balancing growth with supporting local character?

## Existing use of overlays within NSW

In NSW several councils have a map layer (an overlay) in their LEP identifying character areas; however, there is no standard approach, and this doesn't yet align with the strategic plan-led planning framework. A local character overlay could effectively align the development outcomes to the strategic vision and plans that sit above the LEP.

## What will a local character overlay do?

A local character overlay consists of a map layer and an associated clause within a LEP which identifies the additional assessment requirements. The map layer details the boundaries of character areas and the associated clause establishes development considerations to ensure development proposals address council's local character aspirations and development controls. This Paper proposes a standardised map layer and clause through the SI LEP.

A local character overlay could support local character through a LEP to strengthen or create a link to a standalone local character statement and/or controls that sit within a development control plan (DCP), or to exclude or vary statewide policy.

A local character overlay could have a few functions.

The map layer could:

- identify the defined character area and map its boundaries
- identify the characterisation for the area (as outlined in the Local Character and Place Guideline)
- trigger local variations and in exceptional circumstances local exclusions from statewide policy.

The clause could:

- require applicants to meet development controls within the DCP for a proposed development within the character area
- require applicants to submit a statement of consistency with the desired future character (where council has set a desired future character)
- include consideration of the statement of consistency as part of the assessment of a development application
- identify local character requirements for development proposals (additional requirements, development controls and/or statement addressing consistency with the desired future character)
- implement the local strategic planning statement reflecting the community's future vision for an area

#### Key questions

- Are the functions listed above helpful in supporting local character?
- Are there any other functions that a local character overlay could deliver?
- What are your thoughts on a "statement of consistency" for development applications to identify a proposal's consistency with desired future character?

## Where should local character overlays be introduced?

If councils wish to support local character through their LEP they could submit a planning proposal in line with the standardised map layer and associated clause that would be included within the SI LEP Order. The Department would review all submitted planning proposals against published criteria to evaluate the benefits and impacts of introducing a local character overlay.

Character areas needn't be everywhere, only where councils and their community feel that the broader zone objectives don't provide sufficient guidance or direction to manage change while supporting local character. Further direction on local character and how to identify, describe and support it is provided in the Local Character and Place Guideline.

#### Key questions

- Councils – do you anticipate introducing a local character overlay into your LEP?
- Are you able to provide detail on any potential overlays to assist with developing the policy?

## How will an overlay be included in the SI LEP?

A proposed amendment to the SI LEP Order would introduce an optional (standard) clause and a map layer to accommodate a local character overlay. Once this amendment to the SI LEP Order is made, then councils would be able to choose to prepare a planning proposal to adopt the clause and apply a local character overlay within their LEP.

Prior to submitting a planning proposal, it is strongly recommended that councils consult with the Department in the drafting of the map layer. Once the planning proposal has been submitted the Department would evaluate what is proposed against the criteria below.

The proposed overlay would be a map layer within the SI LEP with a supporting [standard optional clause](#) to give weight to local character considerations. Do you think this is the right approach?

## Criteria for introducing a local character overlay

Where a council intends to prepare a planning proposal for a local character overlay the Department will evaluate each proposed local character overlay, the extent of the overlay and anticipated effects. The Department would establish criteria that councils must satisfy when submitting a planning proposal to add a local character overlay. These requirements would be centred on having undertaken a strategic planning process and ideally will follow councils' draft local strategic planning statement and local housing strategy. Below are draft criteria for consideration.

The below table outlines the criteria that could be submitted with any planning proposal for a local character overlay.

**Table 1: Proposed criteria and supporting information for a planning proposal to introduce a local character overlay**

Criteria	Indicative supporting Information
1 Proposal	<ul style="list-style-type: none"> <li>What is the intended purpose of the overlay? (If the purpose includes varying statewide policy, additional criteria detailed in Table 2 will need to be met).</li> <li>What functions will the overlay seek to deliver? (i.e. introduce local character controls/exclude statewide policy/introduce a test of consistency with desired future character).</li> <li>What other mechanisms are being utilised to support local character? (i.e. update the controls within the DCP/implement the cultural plan &amp; public domain improvement plan). Please provide detail (including development controls where proposed).</li> <li>Why is a local character overlay required, could no other mechanism within the planning system better support local character? (i.e. review of DCP controls/character statement within the local strategic planning statement).</li> <li>How many lots (for houses, businesses, assets) will be captured?</li> <li>Is it a joint proposal across local government boundaries?</li> </ul>

	<ul style="list-style-type: none"> <li>Will the addition of a local character overlay on the site increase the regulatory burden on the land owners/potential applicants?</li> </ul>
<b>2</b> Alignment to the strategic content	<ul style="list-style-type: none"> <li>How does the proposed local character overlay align to the directions within the regional and district strategic plan? The character overlay must be aligned to the wider strategic context. It is important when classifying character that the broader influences are considered within regional strategic plans and in Greater Sydney, district plans.</li> <li>Has residential, commercial and industrial land supply been sufficiently planned for? Where a downzoning is being considered it must be demonstrated that the overall land supply needs can still be effectively met and for residential that the local housing strategy can be delivered.</li> <li>Has local character been raised through the integrated planning and reporting framework engagement?</li> </ul>
<b>3</b> Has community consultation on local strategic planning statements, and if applicable, local housing strategies been undertaken?	<ul style="list-style-type: none"> <li>Summary of the feedback received on local character through local strategic planning statements engagement.</li> <li>Where the character area incorporates residential, summary of feedback received on local housing strategy engagement.</li> </ul>
<b>4</b> Have completed a character assessment in conjunction with their community for the area and have characterised the character area and its attributes of the place that are cherished and to be supported.	<ul style="list-style-type: none"> <li>Provide a copy of the character assessment undertaken in accordance with the Local Character and Place Guideline Part 2 – Character assessment toolkit.</li> <li>Provide a summary of the community feedback received during the character assessment.</li> <li>Provide a copy of the desired future character statement for the area where the local character overlay is proposed.</li> </ul>
<b>5</b> Have prepared the map layer in accordance with the standard technical requirements for spatial datasets and maps and drafted a clause in accordance with the local character optional (standard) clause of the SI LEP (yet to be drafted).	<ul style="list-style-type: none"> <li>Cadastral data and other supporting information is electronically available and can be provided with mapping to Standard Instrument Local Environmental Plan format.</li> <li>Proposed clause be drafted in accordance with the optional (standard) clause under the SI LEP order.</li> </ul>

Are these criteria reasonable for determining and evaluating the result of adding a local character overlay?



## Local character overlay versus complying development

Local character controls prepared for development assessment (within either the SI LEP or DCP) can not apply to complying development under relevant state-wide policy.

Within state-wide policy there is an existing mechanism that allows the introduction of local variations. This would enable, for certain Department endorsed character areas, the ability to introduce alternative development standards within the state-wide policy for the key attributes that strongly influence the character of the area. For instance, requiring a certain roof design (gable in a federation suburb).

Local variations would need to be considered by the Department in terms of their impact including any implications for uptake of complying development and additional costs where standard housing product would need to be tailored to meet the controls which increases costs for a typical project home.

In certain (limited) circumstances character areas may warrant substantial variation to complying development standards beyond the scope of a local variation. In these circumstances councils in collaboration with their community may seek a local exclusion from individual codes of the state-wide policy to better manage the desired future character of those areas. A local exclusion is an existing mechanism within the state-wide policy. Councils will be asked to encourage complying development as the preferred approval pathway elsewhere within the local government area to offset any reduction in uptake because of a local exclusion.

## Criteria and supporting information for local variations and exclusions for the relevant state-wide policy

A State-wide set of clear criteria is already used to consider proposed local exclusions and variations to achieve a consistent State-wide approach. This existing approach could also be applied for local character initiated local variations and exclusions.

Requests would need to demonstrate how each of the criteria has been addressed and satisfied. If a request cannot address one or more criteria, it would not be considered for inclusion in the state-wide policy.

The following criteria are proposed for the consideration of proposed local exclusions and variations to statewide policy:

**Table 2: Proposed criteria and supporting information for local variations and exclusions**

Criteria	Indicative supporting Information
1 Must demonstrate supply and diversity of housing across local government area which will meet current and future needs of community	<ul style="list-style-type: none"> <li>Current and historical complying development take up (from Local Development Performance Monitor).</li> <li>Statistics on development type (issued CDCs and DAs) for a five-year period.</li> <li>Number of lots affected specified for each code (in effect at the time of application and following the deferred period for the Low-Rise Medium Density Code).</li> <li>Compelling reason (see criteria 2).</li> </ul>

	<ul style="list-style-type: none"> <li>Local character assessment undertaken in accordance with the Local Character and Place Guideline indicating that relevant state-wide policy will impact on the desired future character.</li> <li>Evidence of local community and industry views.</li> <li>Provide a copy of the local strategic planning statement and if relevant the local housing strategy.</li> <li>Any consideration of a trigger for local variations will need to demonstrate that without complying development the housing needs can still be effectively met.</li> <li>For lots proposed to be excluded from the relevant statewide policy what is the rationale, and could a local variation introduce a development standard that aligned to local character attributes?</li> <li>Where within the local government area will councils be encouraging complying development as the approval pathway so as to offset any reduction in complying development uptake because of a proposed local character overlay?</li> </ul>
<b>2</b> Compelling reason for variation or exclusion	<ul style="list-style-type: none"> <li>Detailed analysis and comparison between what is proposed and the controls in the policy and the local character assessment undertaken in accordance with the Local Character and Place Guideline.</li> <li>Strategic basis within an adopted council policy, supported by evidence.</li> <li>Desired future character and why it is not supported by standards within statewide policy.</li> <li>Providing real examples and where applicable case studies.</li> <li>Modelling of existing and proposed controls, shadows, impacts on neighbours (where dealing with heights, setbacks, location of upper level).</li> <li>Evidence of local community and industry views from preparation of strategic plans where high standard of consultation has been recently undertaken (including explanation of impact on property values).</li> </ul>
<b>3</b> Variation or exclusion is quantifiable and can be mapped - map prepared in accordance with the standard technical requirements for spatial datasets and maps	<ul style="list-style-type: none"> <li>Cadastral data and other supporting information is electronically available and can be provided with mapping to Standard Instrument Local Environmental Plan format.</li> </ul>



All requests will be reviewed by the Department of Planning and Environment in consultation with the relevant council. Where a request for a local variation or exclusion is endorsed by the Minister, it will be included in the next draft amendment to the relevant statewide policy. The Minister may seek advice from the Greater Sydney Commission or the Independent Planning Commission with regards to making a decision on permitting a variation or exclusion. In preparing draft amendments, the Department may consult further with the relevant council and its community.

Are these criteria appropriate for determining a local character variation or in exceptional circumstances an exclusion?

## Have your say

This discussion paper outlines an option for supporting local character within the SI LEP. A local character overlay could support local character through the SI LEP to strengthen or create a link to a standalone local character statement and/or controls that sit within a DCP or for statewide policy.

The Department of Planning and Environment welcomes feedback.

## How to make a comment

This discussion paper is available on the Department of Planning and Environment's website at [www.planning.nsw.gov.au/localcharacter](http://www.planning.nsw.gov.au/localcharacter)

You can make a comment online at the website or you can write to:

Director, Local Planning Policy

NSW Department of Planning and Environment

GPO Box 39, Sydney NSW 2001

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## SUBMISSION TO DEPARTMENT OF PLANNING AND INDUSTRY ON DISCUSSION PAPER FOR LOCAL CHARACTER AND PLACE

### General Comments

Council acknowledges the Department's release of Local Character and Place Guidelines (the Guidelines) in February 2019, and responds in this submission to the Discussion Paper – Local Character Overlays (the Discussion Paper) released with the Guidelines.

As the deadline for submissions on the Discussion Paper was 20 May 2019, an extension of time was granted to enable reporting the matter to Council.

Council supports the Department's recent release of the Guidelines as a useful resource for stakeholders involved in shaping the local character of an area. These Guidelines will assist communities and governments to understand and define existing valued elements of character and to set a desired future character that aligns with the strategic land use directions for the Northern Beaches.

Council supports the Department's publication of a standard Local Character Overlay for use by councils in the preparation of future LEPs. This approach will ensure that character assessment is given the same legal weight as other planning matters in the development application process. It also establishes the legal mechanism to seek exemption or exclusion from certain State Policies subject to appropriate justification.

Council considers that the application of such a planning tool must however recognise the complexity of defining character. Identifying the character of an area requires consideration of many different facets, some of which are intangible.

The issue of a statement of consistency lodged as part of the assessment of a development application cannot ensure that a development is consistent with the desired future character of an area and retain those aspects of a place that are valued. Consistency with a local character statement is the starting point in the preparation, design and assessment of any proposed development each with its unique combination of site-specific elements and local context. The overlay mechanism should not be used to circumvent merit based site assessment of detailed social, environmental and economic impacts pertaining to an individual development.

### Responses to Key Questions raised in the Discussion Paper

#### Will the standard approach to local character overlays in the LEPs effectively balance growth with supporting local character?

In considering an effective balance of future growth with the need to support local character, Council prefers a broader reference to 'change' as being more appropriate than 'growth'. The desired future character of a place may involve change, but not necessarily growth in size or population. A place attributed a characterisation of 'change' may involve shifts in how people live, work and recreate which may redefine the character of an area but may not involve growth in the population of the place due to environmental, social or economic constraints. Similarly, where the desired future character of a place is characterised as 'maintain', some well-managed and controlled growth could still be achieved.

Council submits that effective growth in social and economic prosperity occurs through a community-led understanding of the character of local places, that is, what is valued into the future. A full understanding of local character will set and prioritise the desired future character of local places which may be categorised as either 'change', 'enhance' or 'maintain' (Local Character and Place Guidelines, DPE p.30). When the desired future character of a place is 'change' or perhaps

even 'enhance' some opportunity may exist to effectively balance growth; but such opportunities would be more limited for places where the desired future character is 'maintain'.

While Council supports the use of overlays to articulate the local character of place, the use of these overlays to balance where growth may occur is too simplistic and potentially ineffective. 'Growth' and 'change' are not synonymous.

*In terms of the proposed function of a local character overlay, are these functions helpful; and are there any other functions to consider?*

The general function of identifying certain areas on an LEP or DCP map for any number of purposes is a well-used tool to allow consideration of matters for special "places" in addition to the requirements of standard instrument zones.

Tables 1 and 2 of this submission list the range of LEPs and DCPs across the Northern Beaches in which map layers define areas associated with an LEP clause and/or DCP guidelines. These overlays do in some instances identify certain character areas with associated guidelines to particularly support that character (e.g. Pittwater DCP Section A4 (Character Statement) and Section D (Locality Specific Controls).

However many other mapped areas with associated provisions exist across Northern Beaches Plans for places, areas, precincts or the like with associated standards, considerations or guidelines dealing with particular elements or attributes that go towards characterising a place. For example, LEP Key Sites Maps identify numerous sites including St Patricks Estate (Manly LEP cl.6.9), Dee Why Town Centre (Warringah LEP Part 7) or Warriewood Valley Release Area (Pittwater LEP cl.6.1) which all provide significant provisions including accompanying DCPs, which shape the future character of these local places.

The proposed function of an LEP map overlay with an accompanying LEP clause may be the most appropriate means of drafting site-specific requirements, controls and/or statements addressing consistency with the desired future character of a place.

Council supports the proposed function of LEP mapping to identify areas where state-wide policy is varied or excluded. Such variations and exclusions would also require amendment to state-wide policy such as SEPPs to enable the LEP to either vary or exclude the SEPP. Council recognises that a full understanding of the local character of a place may warrant variations and exclusions from policy that applies on a state-wide basis having regard to strategically determined local contexts.

The proposed function of the LEP to require applicants to comply with DCP controls for development in a character area appears to confuse the respective roles of LEPs and DCPs. It is not clear that an LEP provision can require compliance with a DCP. The statutory relationship between an LEP (as an environmental planning instrument) and the DCP is defined in legislation (Section 3.43 EP&A Act 1979). Where a DCP provides guidance in relation to any of these matters, compliance with the DCP should be considered regardless of whether the development is in a character area or not.

*What are your thoughts on a 'statement of consistency' for development applications to identify a proposal's consistency with desired future character?*

All DA applicants are already required to submit a Statement of Environmental Effect, which demonstrates consideration of relevant plans and policies. For example, in relation to residential development, Manly DCP 3.1.1 states 'Development should recognise predominant streetscape qualities, such as building form, scale, patterns, materials and colours and vegetation which contributes to the character of the local area.' More generally, Pittwater DCP A1.7 requires that 'before granting development consent, Council must be satisfied that the development is consistent with ... the desired character of the Locality...'.

Council supports the continued use of Statements of Environmental Effect, which address environmental impacts of the development, measures taken to protect the environment and other

matters prescribed (Schedule 1(4) Environmental Planning and Assessment Regulation 1979). In this regard, such matters should also indicate that a development is consistent with the desired future character of an area. The 'statement of consistency' could be included in the Statement of Environmental Effect.

*Does Council anticipate introducing a local character overlay into the LEP? Can Council provide details of any potential overlays to assist with developing the policy?*

There are numerous examples in Council's LEPs and DCPs in which map layers define areas associated with and LEP clause and/or DCP guidelines.

Council would consider the use of local character overlays in the preparation of the new Northern Beaches LEP.

*Do you think the right approach is a map layer within the SI LEP with a supporting standard optional clause to give weight to local character considerations?*

Yes, Council would consider this an appropriate approach.

*Are the proposed criteria for determining and evaluating a proposed local character overlay reasonable?*

Yes, this proposed guidance helpfully supplements existing Guidelines for Preparing Planning Proposals. In terms of the stated criteria for 'Alignment to the strategic context' Council queries the need to consider 'has residential, commercial and industrial land supply been sufficiently planned for' as such land supply targets do not necessarily inform the character of a place. Furthermore, reference in this part to 'where a downzoning is being considered' may require further clarity to distinguish between LEP Zoning mechanisms and the proposed Overlay mechanism. In general, Council suggests such further guidance may include some best practice or Model clauses as example clauses for consideration.

*Are the proposed criteria for determining a local character variation or exclusion appropriate?*

Yes, this proposed guidance is helpful in better articulating where the Department may provide for *variations or exclusions* from its relevant policy with particular regard to Complying Development.

**Table 1: LEP Local Provisions involving mapping overlays**

LEP Provisions	Mapping details	Purpose	Character element
All LEPs  Clause 6.1 Acid sulphate soils and LEP Acid Sulphate Soil Map	LEP mapping defines areas with acid sulphate soils and the associated level of risk	To manage acid sulphate soil and adverse impacts associated with areas identified on map overlays.	Environmental – geological feature in terms of the topography of the land with a relationship to development, particularly earthworks
All LEPs  Clause 6.3/7.3 Flood planning and DCP Mapping of Flood Prone land	DCP mapping defines land as identified in the LEP as being 'at or below the flood planning level' and the associated level of risk	To minimise flood risk; ensure development is commensurate with risk and avoid adverse impacts associated with mapping overlays for flood prone land	Low-lying special geography with environmental features and flooding risk. Also economic elements, safety and special building constraints associated with flood risk.
Manly and Pittwater LEPs  Clause 6.5/7.6 Biodiversity and LEP Biodiversity Map ()	LEP mapping defines areas of native fauna and flora and their habitat requiring protection and conservation including ecological processes necessary for their continued existence	To provide a range of additional statutory considerations and requirements to satisfy in determining DAs for certain areas identified on map overlays.	Environmental - native fauna and flora and their habitats. Also characterised by important ecological processes over the land necessary for their continued existence
Pittwater and Warringah LEPs  Clause 7.5 Coastal risk planning and Coastal Risk Planning Map (Pittwater LEP) & Clause 6.5 Coastline hazards and LEP Coastline Hazard Map (Warringah LEP)	LEP mapping defines areas of coastal risk including the protection of areas for public recreation and amenity.	To provide a range of additional statutory considerations and requirements to satisfy in determining DAs for certain areas identified on map overlays.	Environmental – Particular coastal areas subject of coastal hazards including wave inundation, coastal erosion/wave inundation, or bluff/cliff instability.
Manly LEP  Clause 6.6 Riparian land and watercourses and LEP Watercourse Map	LEP mapping defines local watercourses and riparian land in the vicinity (40m to the top of the bank) requiring protection and maintenance.	To provide a range of additional statutory provisions to protect and maintain water quality, watercourse stability, habitats and ecological processes within watercourses and riparian areas in DA assessment.	Environmental - Riparian land and watercourses including aquatic and riparian habitats. Also characterised by important ecological processes within watercourses and riparian areas.



Manly LEP Clause 6.7 Wetlands and LEP Wetlands Map	The LEP maps define areas of wetlands identified and requiring preservation and protection from the impacts of development.	To provide a range of additional statutory considerations and requirements to satisfy in determining DAs for certain areas identified on map overlays.	Environmental - Wetlands to be preserved and protected with regard to the condition and significance of the native fauna, habitats for indigenous and migratory species, and surface and groundwater characteristics of the land (water quality, natural water flows and salinity).
Manly LEP Clause 6.8 Landslide risk and LEP Landslide risk Map	The LEP maps land susceptible to landslide.	To provide a range of additional statutory provisions to ensure that development of matches geotechnical conditions of the mapped land, and is restricted on unsuitable land.	Environmental – land with underlying geotechnical conditions susceptible to landslide. Land requiring certain management to avoid landslide risk or significant adverse impact.
Manly LEP Clause 6.9 Foreshore scenic protection area	LEP mapping defines an area of land with a visual/ scenic relationship with Sydney Harbour, the Pacific Ocean and the foreshore in Manly.	To protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly.	Environmental – land with strong visual/ amenity relationships to Sydney Harbour and the Ocean. Character elements impact building design and suitability with particular regard to scenic qualities of the coastline, amenity and views.
All LEPs Clause 5.10 Heritage Conservation and LEP Heritage Maps	LEP maps Heritage Conservation Areas. Note: certain individually listed Heritage Items also comprise areas such as a whole street block	To conserve the heritage significance of heritage conservation areas	Environmental – Heritage.
Manly LEP Clause 6.19 Development in St Patrick's Estate	The LEP maps define a heritage 'Estate', mapping 15 precincts with particular provisions to protect the heritage significance of each area and various buildings and to	To protect the heritage significance, including the archaeological, natural and cultural heritage values, of areas identified on map overlays over the	Environmental and Social – Heritage, including archaeological, natural and cultural heritage values.

	ensure sympathetic scale and built form.	St Patrick's Estate.	
Pittwater LEP Clause 6.1 Warriewood Valley Release Area	The LEP maps a range of buffer areas, sectors or addresses, which limit dwelling capacity.	To ensure that development in that area does not adversely affect waterways and creek line corridors, protects existing native riparian vegetation and rehabilitates the creek line corridors.	Environmental – A redevelopment area with important waterways and creek line corridors, and native riparian vegetation requiring protection and/or rehabilitation of the creek line corridors.
Warringah LEP Part 7 Dee Why Town Centre mapped on the LEP Key Sites Map	The LEP maps define the Centre's key precincts, town square, and pedestrian and road connections.	To provide a centre to meet social, economic, environmental needs of the local community consistent with role of the place as a major centre	Environmental, Social and Economic elements in relation to uses, places, buildings and structures, movement and open space.
Warringah LEP 2000 (non-standard LEP)	The LEP maps (deferred matters) Oxford Falls Valley and North Belrose accompanied by desired future character statement and related land use and built form provisions	Mapped Localities are accompanied by desired future character statement and related land use and built form provisions	Environmental, Social and Economic elements in relation to uses, buildings and structures, movement and open space.

**Table 2: Place-based Provisions in Northern Beaches DCPs**

Nature of Place	DCP Reference	Local Character Descriptors	Place Based DCP Guidelines
Localities (lands under Pittwater LEP)	Pittwater DCP Section A4 (Character Statement)  Pittwater DCP Section D (Locality Specific Controls) and Section C.6 (Warriewood Valley Release Area only)	16 Localities mapped with a range of guidelines across the areas in terms of land uses, geography, and social character	A range of Locality Specific Controls in a wide range matters including, building envelope, landscaping, building lines, fences, colours and materials, retaining walls, scenic protection, specific land use guidelines.
<b>Centres</b>			
Centres Strategic Centre - Dee Why	Warringah DCP Part G1 Dee Why Mixed Use Area	10 areas mapped within an area, which has been broadly characterised for change and enhancement.	Detailed requirements for redevelopment including new public precincts, access, interface etc.
Centres Strategic Centre – Manly	Manly DCP Part 4.2.5 Manly Town Centre and Surrounds	Strategic Centre (social, economic and environmental values)	Guidelines regards townscape, height, design, backpackers and late night venues. townscape principles
Centres Strategic Centre – Mona Vale	Pittwater DCP Part D1 Mona Vale Locality (provisions at D9.16)	Mona Vale - Character of public domain within the broader character statement for the Mona Vale Locality	Guidelines regards works in the public domain including the footpath, drainage f, street furniture, lighting and landscaping.
Centres Local Centre - Avalon	Pittwater DCP Part D1 Avalon Locality (Avalon Beach Village provisions at D1.2,12,18, 19)	Avalon Beach Village within the broader character statement for the Avalon Locality	Guidelines regards character, building envelope, shop top housing & public domain
Centres Local Centre - Elanora Heights Village	Pittwater DCP Part D1 Elanora Heights Locality (Elanora Heights Village) provisions at D5.15-45	Elanora Heights Village within the broader character statement for the Elanora Heights Locality	Guidelines regards amalgamation, setbacks, character, building envelope, landscaping & public domain etc.
Centres Local Centre - Newport	Pittwater DCP Part D10 Newport Locality (Newport Town Centre provisions at D10.6,7,9&17). See also B2.3 Subdivision	Newport Commercial Centre within the broader character statement for the Newport Locality	Guidelines regards character, street frontage, setback, envelopes, public domain, subdivision and amalgamation of

	- Business Zoned Land		lots.
Centres Local Centre - Balgowlah	Manly DCP Part 4.2.6 Balgowlah Local Centre	Local Centre. A predominantly linear Centre with a Shopping Complex	Guidelines regards height, interface, townscape principles
Centres Local Centre - Seaforth	Manly DCP Part 4.2.7 Seaforth Local Centre	Local Centre. predominantly linear centre along Sydney Road with primary catchment for the centre being Seaforth suburb	A range of guidelines townscape principles, height, access, façade design, setbacks and interface with adjoining residential zones.
Centres Local Centre - Freshwater	Warringah DCP Part G5 Freshwater Village	Local Centre 'village'.	A range of guidelines for Street activation, height, access, awnings, roofs setbacks etc
Centres Neighbourhood Centres (all centres zoned B1 under Manly LEP)	Manly DCP Part 4.2.8 and Schedule 2 Townscape Principles (Maps D – H mapping 14 Neighbourhood Centres in Balgowlah, Balgowlah Heights, Fairlight, Manly, Seaforth.	Neighbourhood Centre within the surrounding residential contexts serving the needs of people in the surrounding neighbourhood.	A range of guidelines including townscape principles (access points, significant vistas etc) for individual centres
Centres Neighbourhood Centre - Elanora Heights	Pittwater DCP Part D5.15	Elanora Heights Village Centre	subdivision and amalgamation of lots in addition to general controls at B2.3 Subdivision - Business Zoned Land
<b>Key Sites and Precincts</b>			
Key Site	Warringah DCP F2 Brookvale Brickworks	Lots 11 and 12 in DP 1101677, Brickworks	Guidelines regards Greendale Creek and interpretation of Heritage
Key Site	Warringah DCP F4 Infrastructure	Kimbriki Recycling and Waste Disposal Centre (Waste or Resource Management Facility), Ingleside	This area will continue to provide the core business functions of a Waste or Resource Management Facility  The land will be managed appropriately to avoid adverse impacts on Deep Creek and its catchment

Key Site	Warringah DCP F4 Infrastructure	Bare Creek (Waste or Resource Management Facility), Belrose	For continued use for general waste disposal. Over time, the landfill will be phased out and the area rehabilitated. Future development integrated with landscape and topography and be visually unobtrusive. Relationship to bushland will be reinforced.
Local Precinct	G2 R3 Medium Density Residential bound by Sturdee Parade, Pacific Parade and land zoned B4 Mixed Use	remain primarily a medium density residential area	A range of guidelines for building envelope, view lines, building articulation, street frontage, open space configuration, setback, minimum open space, foot and cycle connection
Local Precinct	G3 Belrose Corridor		A range of guidelines for Public Domain; Open Space; Pedestrian Road Network; Environmental Management (Vegetation Retention and Rehabilitation; Water cycle Management; Remediation; Soil and Water Management); Built Form Requirements (Height, setback, envelope, dwelling design, private open space, landscaping, access & parking, servicing)
Commercial Site	G4 Warringah Mall		A range of guidelines for Built Form (Design Quality & Excellence, Setbacks and Street Frontages
Local Site	G6 Dee Why RSL site	For future development on Lot 1, DP 706230, 932	A range of guidelines for Built Form; Boundary envelope;

		Pittwater Road Dee Why.	Boundary setbacks; Safety and security; Views: Landscaping and civic improvements; Economic and social sustainability; Traffic generation, car parking and vehicular access.
Residential Precincts	G7 Evergreen	For future residential development for small lot housing on the Evergreen Estate. 26 Campbell Avenue Cromer - 34 residential lots	
Heritage Estate	Manly DCP Part 5.3 St Patricks Estate		
Residential Precinct	Manly DCP Part 5.6. Rignold Street, Gurney Crescent & Clavering Rd, Seaforth		A range of guidelines for buildable area, significant trees, protection of landforms and Flora and Fauna, Buffer Strips and Access to lots
<b>Heritage</b>			
Heritage Conservation Areas	Manly DCP Part 5.1 Manly Town Centre HCA		A range of guidelines to accompany the LEP Heritage Listing.
Heritage Conservation Areas	Manly DCP Part 5.2 Pittwater Road HCA		A range of guidelines to accompany the LEP Heritage Listing.
<b>Environmental Areas</b>			
Environmental Areas	Manly DCP	Foreshore Scenic Protection Areas	
Environmental Areas	Pittwater DCP C.6	Warriewood Valley Release Area	





## Council Policy

### Moveable Heritage Management Policy

#### Policy Statement

This Policy supports Council's role of identifying and protecting objects of heritage significance to the Northern Beaches. It assists in the collection, documentation and interpretation of objects of moveable heritage which can provide historical information about the Northern Beaches, its development and the people and their stories which are integral to understanding its past.

#### Principles

This Policy adopts the Movable Heritage Principles issued by the NSW Heritage Office:

1. Movable heritage relates to places and people.
2. Educating the community about how to identify and manage moveable heritage, assists in conserving items and collections.
3. Assess the heritage significance of movable items and collections before making decisions on managing them.
4. Recognise the significance of indigenous moveable heritage to indigenous communities and its unique role in cultural maintenance, cultural renewal and community esteem.
5. Retain moveable heritage within its relationship to places and people, unless there is no prudent or feasible alternative to its removal.
6. Remove moveable heritage from its relationship to places and people only when the items and collections are under threat and this is the only means of safeguarding or investigating significance.
7. Provide community access to moveable heritage and encourage interpretation.
8. Document moveable heritage.
9. Acquire movable heritage where there is no alternative to removal, where this serves clearly defined collecting policies.
10. Reinstall or return items and collections to places and people when circumstances change.

#### Scope and application

This policy applies to all employees, agents and officers of Northern Beaches Council, as well as members of the Places for People Strategic Reference Group and all Councillors.

#### References and related documents

*Objects in their Place - An Introduction to Moveable Heritage*, NSW Heritage Office, 1999

*Moveable Heritage Principles*, NSW Heritage Office and Ministry for the Arts Moveable Heritage Project, Sydney 1999

*The Illustrated Burra Charter*, Australia, ICOMOS, Marquis-Kyle, P and Walker, M, 1994

#### Definitions

This Policy adopts the NSW Heritage Office definition of moveable heritage:

**moveable heritage** is a term used to define any natural or manufactured object of heritage significance (but excludes archaeological relics found underground or underwater).

An ***object of movable heritage*** is not a ***heritage item***, as defined in Council's Local Environmental Plans (Manly LEP 2013, Warringah LEP 2011 and Pittwater LEP 2014).

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For this reason, the term ***object*** is used in this Policy to refer to items and objects of movable heritage and this term covers ***all types*** of movable heritage (including paper-based and 3D objects). ***Object*** is also the term used by the NSW Heritage Office in the definition of movable heritage.

#### Responsible Officer

Executive Manager – Strategic & Place Planning

#### Review Date

Two (2) years from date of adoption, then every four (4) years on-going.

#### Revision History

Revision	Date	Change	TRIM Ref
1			
2			

#### POLICY DETAIL

##### Establishment of Movable Heritage Register

A Movable Heritage Register will be established which provides photographs and information on objects which have been assessed as being of heritage significance to the Northern Beaches. This Register will be created with a view to it being made available on-line, thereby providing increased community access to information on the heritage and history of the Northern Beaches.

~~The focus of this Register will be recording 3D moveable heritage objects, rather than paper-based moveable heritage (which are already largely documented in existing collections).~~

~~The initial focus will also be on objects of moveable heritage which are in Council ownership.~~

~~The initial focus of this Register will be to record:~~

- ~~• moveable heritage objects, which are not yet documented in an existing collection; and~~
- ~~• moveable heritage objects which are in Council ownership.~~

~~The Register will not be limited by these initial priorities, being designed so that it can record and document all manner of moveable heritage, whether in Council's ownership or not.~~

~~This Register will be created in consultation with Council's Local Studies unit, to ensure compatibility with documentation of the Northern Beaches Local Studies collection.~~

~~One of the main aims of the Register is to have it available for the community to access. The Moveable Heritage Register, as a collection of objects of moveable heritage significance to the Northern Beaches, should be made available by Council as an on-line searchable database (similar to the current historic photographs database, currently provided by Local Studies).~~

##### Determining Significance to the Northern Beaches

An object of moveable heritage must be assessed against criteria to determine whether it is of heritage significance to the Northern Beaches area. The basis for this assessment will be the Northern Beaches Thematic ***Study-History*** (to be completed 2019~~8~~) along with the Northern Beaches Historical Themes which will result from this ***sStudy***.



To be listed and recorded in Council's Moveable Heritage Register, the object must be able to show or represent a particular period of development, particular event or other link with the past history and development of the Northern Beaches area.

The identification of Northern Beaches historical themes will guide this determination of local heritage significance. An example of this is the current museum policy adopted by the Manly Art Gallery & Museum (MAG&M), which collects museum pieces which specifically reflect the historic theme of beach culture. While this is currently focussed on Manly, the beach theme is prevalent throughout the whole Northern Beaches area and is only one of the historic themes important in the development of this area.

#### **Relationship to Existing Moveable Heritage Collections**

The Moveable Heritage Register will complement existing collections of moveable heritage managed by Council. These include the Museum Objects collection managed by MAG&M and the paper based collections (e.g. photographs, maps, plans, books, documents) managed by Local Studies units within Manly, Dee Why and Mona Vale Libraries.

#### **Relationship to Collection Management and Gift Policy**

The Moveable Heritage Register will sit under the general Northern Beaches Collection Management and Gift Policy, which contains detailed guidelines for collection development, acquisitions, gifts, preservation and care and collection access. The establishment of the Moveable Heritage Register will be guided by these Collection Management and Gift Policy guidelines, which provide more detailed consideration of these aspects of collection management.

#### **On-going Management of Register**

The Register of Moveable Heritage will require on-going management. After initial set-up, the addition of existing items in Council ownership will be an on-going process of documentation and inclusion in the Register.

As new objects are offered to Council, acquired by Council or otherwise come to Council's attention for addition to the Register, they will need to be assessed to determine if they meet the heritage significance criteria for addition to the Register.

One of the main aims of the Register is to have it available for the community to access. The Moveable Heritage Register, as a collection of 3D objects of heritage significance to the Northern Beaches, should be made available by Council as an on-line searchable database (similar to the current historic photographs database, currently provided by Local Studies).

Once fully established, with an on-line presence, there will be on-going management related to the assessment and documentation of potential new objects to be added to the Register. While assessment of new objects will need to be done by Council, there are significant opportunities to utilise volunteers for the documentation and addition of movable heritage objects onto the Register

#### **Guidelines for future acquisitions**

Moveable heritage objects considered for acquisition by Council will first be assessed to determine if the object meets the criteria for heritage significance (i.e. does it possess heritage significance in the context of the Northern Beaches). Also considered will be the rarity of the object, with priority being given to objects which fills gaps in Council's moveable heritage collection.

Cost will also be a factor, along with practical issues such as storage considerations. In some instances, Council may consider photographically recording the item for the Register, without purchasing the object.

#### **Guidelines for future donations**

Donations from individuals and organisations are encouraged, however they will also need to be assessed as to whether they meet the criteria for listing on the Moveable Heritage Register. If a donated item is determined not to meet the heritage significance criteria, or at some time in the



future is considered to no longer be needed on the Register, then Council may dispose of such objects appropriately.

#### **Storage**

Items identified in the Moveable Heritage Register, if not displayed in a Council building, should be stored in a controlled environment appropriate for objects of heritage significance.

#### **Display of Moveable Heritage Objects**

Where possible, Council should celebrate moveable heritage in its custodianship, by placing them on display in Council owned buildings. Where this is not possible, Council should investigate allocation of a building [space](#) for the permanent storage and display of Northern Beaches moveable heritage. In doing so, Council will increase community access to history and heritage resources and increase community awareness of the importance of remembering the past history of an area.

#### **Budget allocation**

To assist in the on-going enhancement of Council's moveable heritage collection, a budget allocation should be made available each year for the acquisition of important objects which reflect the past history and development of the Northern Beaches.

#### **On-going review and reporting**

This Policy should be reviewed two (2) years after its adoption, to ensure that it is achieving its stated purpose. After the initial period, this Policy should be reviewed every four (4) years or sooner, should the need be identified.

## Draft Moveable Heritage Management Policy

### Exhibition - Summary of Submissions

No	Submission Detail	Comment/Recommendation
1	<p><i>Policy should be for identification, recording and preservation of all Northern Beaches' moveable heritage items, not just for those items in Council's possession.</i></p> <p><i>Policy should include guidelines to assist and encourage non-Council parties to identify potential items of moveable heritage in their possession, record their details and manage their preservation.</i></p> <p><i>Policy should address preservation and conservation of items.</i></p> <p><i>By specifying the focus as 3D objects it is not clear whether the policy considers photographs (including negatives) to be "objects of heritage significance".</i></p> <p><i>Strongly support the suggestion that Council investigate the allocation of a building for the permanent storage and display of Northern Beaches moveable heritage.</i></p>	<p>The Policy has an initial focus on establishing a Register and recording those items in Council ownership, however, it will not be limited to this and there will be scope to add privately owned items to the Register in the future.</p> <p>Council can use other mechanisms to educate and encourage private/ community owners of moveable heritage to recognise, record and manage their items. This could be done as part of the future Northern Beaches Heritage Strategy.</p> <p>Similarly, the future Heritage Strategy can look at developing guidelines for preservation and conservation. In the interim, the NSW Heritage Office provides such guidance.</p> <p>The Policy applies to all types of objects of heritage (including 3D objects and paper-based objects). Photographs and negatives would be included in the definition included within the Policy.</p> <p>The suggestion that Council investigate a permanent storage and display building for Moveable Heritage is noted.</p> <p>The Policy already includes the need for Moveable Heritage items to be appropriately stored in controlled environments and where possible appropriately displayed in Council owned buildings.</p> <p><b><i>Wording of the Policy has been changed to more clearly define what objects are classified as moveable heritage and to make it clear that the Policy does not only apply to 3D objects.</i></b></p>
2	<p><i>In the garage underneath Forestville Library there are two foundation stones. They are both related to the first Library located in Starkey Street. This is part of the history of Forestville in its early days. It would be good if they could be displayed near the present library.</i></p>	<p>Investigations with Council's Local Studies Unit have not revealed any evidence that these two foundation stones exist or are still stored at Forestville Library.</p> <p><b><i>No change to Policy required</i></b></p>
3	<p><i>The three local studies collections also contain objects and are not just 'paper-based'</i></p> <p><i>It would be good to allocate money for acquisitions, but even more important is to budget for a curator to manage this collection, especially if it is to be in a 'building for permanent storage and display'.</i></p> <p><i>Within your whole document are the parameters for a Collection Development Policy which should be clearly defined - see</i></p>	<p>Information noted. Wording of Policy has been changed to clarify that Local Studies collections are not only paper based.</p> <p>Allocation of money for acquisitions and a curator for the collection, is noted.</p> <p>Council has prepared a Collection Management Policy, which will provide overarching guidelines for the development of Council's moveable</p>



No	Submission Detail	Comment/Recommendation
	<i>MAGM's for an example.</i>	heritage collection. <b>No change to Draft Policy required</b>
4	<p><i>Bayview Golf Club should be granted moveable heritage status and golf course should be resumed by Council (as provided for at item 9 in draft Policy), and leased back for ongoing functions and opened up for public recreation.</i></p> <p><i>Council needs to change the definition of moveable heritage from "moveable heritage is by nature not fixed" to reflect the Office of State Heritage's definition that "moveable heritage is places and people", so that the Golf Club's status can be changed to be considered as a moveable heritage item.</i></p>	<p>This is outside the scope of the Moveable Heritage Management Policy.</p> <p>Bayview Golf Club relates to land and therefore is considered 'fixed' and not moveable in accordance with the NSW Heritage Office definition of moveable heritage, which is "a term used to define any natural or manufactured object or collection of heritage significance". The reference to 'places and people' comes from the Moveable Heritage Principles issued by NSW Heritage Office, which are included within the Policy.</p> <p><b>No change to Draft Policy required</b></p>
5	<p><i>Council should provide a facility to store Moveable Heritage items.</i></p> <p><i>Focus on recording 3D items/ objects is too narrow and needs to be extended.</i></p> <p><i>Reference to 'object' implies 3D, scope needs to be extended to include paper based and photographs.</i></p> <p><i>No timeframe provided on the initial focus on Council own Moveable Heritage, urgently need to save moveable heritage objects privately owned.</i></p> <p><i>Concern with the use of limited historical themes to guide assessment of local heritage significance.</i></p> <p><i>Council existing paper based collections held by Local Studies units should not remain static, but be expanded where appropriate objects become available.</i></p> <p><i>Council should consider accepting donated items before undertaking assessment of heritage significance so items are not lost during the timeframe of assessment being undertaken.</i></p> <p><i>Register should include in time documents and historic photographs that are not currently held by Local Studies Unit.</i></p>	<p>Support for a permanent storage facility for moveable heritage objects is noted.</p> <p>The Policy scope covers all types of objects of heritage (including 3D objects, paper-based objects, photographs etc.).</p> <p>The word <i>object</i> is used for movable heritage to distinguish it from heritage items listed within Council's various Local Environmental Plans. Also, the definition of movable heritage by the NSW Heritage Office uses the term <i>object</i>. An object of movable heritage refers to all items of movable heritage, not just 3D objects.</p> <p>While the initial focus will be on Council owned objects, there will be opportunity to record or purchase privately owned objects from the Policy outset, if the objects meet the assessment criteria.</p> <p>Assessment will be guided by the historical themes established by the Northern Beaches Thematic History – which will not be a limited list.</p> <p>The Local Studies unit is not managed statically, with existing collections continually being developed and expanded.</p> <p>Moveable Heritage Principle 3, clearly indicates that the assessment of heritage significance is to occur before making decisions. Therefore, acceptance of objects prior to assessment of heritage significance, is not supported.</p> <p>The Register can include documents not currently held by Local Studies, as long as they meet the criteria for listing on the Moveable Heritage</p>



No	Submission Detail	Comment/Recommendation
	<p><i>Criteria for heritage significance is selected by Council, but should be put on publication</i></p> <p><i>The disposal of donated items no longer needed on the Register is concerning as it does not provide any security for these items.</i></p> <p><i>Storage of items is critical to ensure they do not deteriorate. Storage space for moveable heritage is an urgent priority that needs to be addressed.</i></p>	<p>Register.</p> <p>The criteria for heritage significance will be based on the historical themes identified as part of the Northern Beaches Thematic History, which will be completed in 2019 and placed on public exhibition prior to adoption.</p> <p>Comment noted re: disposal of items no longer needed.</p> <p>Request for urgent storage space is noted.</p> <p><b><i>Wording of the Policy has been changed to more clearly define what objects are classified as moveable heritage and to make it clear that the Policy does not only apply to 3D objects.</i></b></p>
6	<p><i>It is of paramount importance that this policy is implemented in order to preserve moveable heritage items that are so easily destroyed.</i></p> <p><i>The public should be consulted about the role of this policy so that important and treasured local items are protected.</i></p> <p><i>Businesses and clubs should be offered the protection of internal and external signs and honour boards.</i></p>	<p>Future heritage initiatives will educate the community on the importance of moveable heritage.</p> <p>It is not desirable to move objects of moveable heritage out of their context as this may reduce their significance. This principle is outlined in the Policy in Movable Heritage Principles 5 and 6, which recognise the need to not remove objects from their place unless there is no other alternative. Consideration of moving a moveable heritage object should only occur if the item is under threat.</p> <p><b><i>No change to Draft Policy required</i></b></p>
7	<p><i>The name "Warringah" seems to be moveable heritage and removing any signage or artwork to be replaced with "generic inaccurate description 'Northern Beaches'... is an abomination in the form of Ethnic Cleansing..."</i></p> <p><i>Other comments are not relevant to the Policy</i></p>	<p>Information noted.</p> <p><b><i>No change to Draft Policy required</i></b></p>
8	<p><i>There are greater concerns for the use of ratepayers funds. Council rates have impacts on all residents being able to afford to live on the Northern Beaches.</i></p> <p><i>Does not doubt the importance of moveable heritage, but there are existing groups in local historical societies whose expertise could be utilised.</i></p> <p><i>Consider using volunteers to assist with costs and seek grant funding, rather than expanding bureaucracy and expenditure with this lower priority item.</i></p>	<p>Avenues for grant funding will be explored along with ways to use knowledgeable volunteers from the community to assist, particularly with the establishment of the Moveable Heritage Register.</p> <p><b><i>Policy wording has been altered to include reference to the use of volunteers in the on-going management of the Register.</i></b></p>
9	<p><i>Important that Council develops this Policy to ensure local history is properly preserved and accessible to the public.</i></p> <p><i>Concerned that scope is limited – should go</i></p>	<p>The Policy has a primary focus on recording existing moveable heritage in Council ownership</p> <p>However, the Policy does allow for future additions or acquisitions of objects of moveable</p>

No	Submission Detail	Comment/Recommendation
	<p><i>beyond Local Studies and capture documents and material kept by community groups and individuals, to ensure documents are retained and not destroyed</i></p> <p><i>Need for a Council storage facility for movable heritage</i></p> <p><i>Volunteers could help in making searchable lists and document retrieval</i></p>	<p>heritage which can demonstrate heritage significance to the Northern Beaches. These may be objects currently owned by community groups or individuals.</p> <p>Need for a storage facility noted. The Policy recognises the need for proper storage and display space for moveable heritage.</p> <p>The use of volunteers to assist with the establishment of the Register is noted and wording has been included within the Policy.</p> <p><b><i>Policy wording has been altered to include reference to the use of volunteers in the on-going management of the Register.</i></b></p>







## MEMORANDUM OF UNDERSTANDING

Lot 11 DP 1092788 (FP) / Lot 12 DP 1092788 (FP) / Lot 5 DP 736961 (PC) / Lot 13 1092788 (FP)

1	<b>Parties Identity</b>	Pittwater Council (PC) and Fraser's Property Limited (FP)
2	<b>Form of Contract</b>	Land Swap Agreement relating to land in Sector 9 within the Warriewood Valley Release Area, between Pittwater Council and FP. The lot details are identified in Item 3.
3	<b>Properties</b>	Land owned by FP to be acquired by PC: That part of Lot 11 DP 1092788, part of Lot 12 DP 1092788 and part of Lot 13 DP 1092788, each currently owned by FP and identified as being acquired by PC in Annexure A  Land owned by PC to be acquired by FP: That part of Lot 5 DP 736961 currently owned by PC and identified as being acquired by FP in Annexure A.
4	<b>Terms of Memorandum of Understanding (MOU)</b>	The intent of this MOU is to set out and identify the terms of the proposed future deed of agreement between PC and FP. This MOU should not be construed by either party as being legally binding.  The parties agree to work together in good faith to address and incorporate the items identified in the Council resolution of 18 May 2015 (Item C12.4) and in this MOU in any future deed of agreement.
5	<b>Valuation and Negotiations</b>	Each party agrees to undertake an independent valuation of the proposed land swap identified in Item 3 above. Each valuation is to be based on an agreed brief that values the land at its highest and best use. Specifically, part of Lot 5 DP 736961 currently owned by PC and identified to be acquired by FP in Annexure A is to be valued on the basis of it having a dwelling yield of 32 dwellings per developable hectare. The valuer must have current NSW registration, be a member of the Australian Property Institute with the appropriate classification and have at least 5 years of experience.  Both parties are to pay their own costs in relation to the services of an independent valuer. The parties are to come to a negotiated outcome in relation to any financial adjustment as a result of the overall land swap transaction. Any financial adjustment is to take place on settlement.
6	<b>Creek line Corridor</b>	The transfer of creek-line corridor land owned by FP identified to be acquired by PC in Annexure A is to be completed as a separate financial transaction in accordance with the Warriewood Valley Section 94 Contributions Plan. The value of the creek line corridor land is to be based on the value specified in the Warriewood Valley Section 94 Contribution Plan in force at the date signing of the deed of agreement. The financial transaction is to be a separate item in the deed of agreement but is to be consolidated in the overall land swap transaction.  Following any financial adjustment that is to be undertaken as outlined in Item 5 above, the parties agree that the compensation set out in this Item 6 is to be paid to FP.  This compensation can be used to offset any amount FP owes to PC.
7	<b>Undergrounding of Overhead Power</b>	PC to provide Ausgrid's approved design and costings to FP for the undergrounding of the existing High Voltage (HV) overhead cabling.  The undergrounding of the overhead power where practical will be in

**NORTHERN BEACHES  
COUNCIL**

**MEMORANDUM OF UNDERSTANDING**

**Lot 11 DP 1092788 (FP) / Lot 12 DP 1092788 (FP) / Lot 5 DP 736961 (PC) / Lot 13 1092788 (FP)**

		<p>accordance with Ausgrid requirements.</p> <p>The parties agree to share the cost of the undergrounding of the existing overhead HV cabling and if required based on Ausgrid's advice, the cost of any associated infrastructure requirements within the properties proposed to be swapped on a 50/50 basis.</p> <p>If there are any additional electrical undergrounding or upgrading required by Ausgrid outside of the land-swap proposed area, these costs will be the to be borne by PC.</p>
8	<b>Road works</b>	<p>The full road width construction, including stormwater infrastructure, are to be completed by FP at its sole cost. These roads are to be dedicated to PC as part of the future residential subdivision of the land.</p> <p>The parties are to consult in good faith in relation to whether a Planning Agreement under section 93F of the Environmental Planning &amp; Assessment Act will be required to affect this aspect of the transaction.</p> <p>Note:</p> <p>Northern extension of Fern Creek Road: This road is only required to be 16m wide as per a "Local Road" under Warriewood Valley Roads Masterplan. In accordance with the Warriewood Valley Landscape Masterplan a 2.1m shared path is to be provided along the eastern side of this road, in lieu of the 1.5m footpath required by the Warriewood Valley Roads Masterplan. The 2.1m wide shared path is all inclusive of the 16m wide road reserve requirement for Fern Creek Road extension.</p> <p>New east-west road: This road is required to comply with the requirements of a "Local Road" under the Warriewood Valley Roads Masterplan. FP is required to construct a dish drain to the edge of the road treatment, however is not required to construct the parking bays and verge on the reserve side of the road.</p>
9	<b>Pittwater LEP Amendment</b>	<p>PC agrees to prepare and lodge a Planning Proposal to amend Pittwater LEP 2014 as follows:</p> <ul style="list-style-type: none"> <li>(a) The part of Lot 5 DP 736961 owned by PC and identified in Annexure A to be acquired by FP will be allocated a maximum building height of 10.5 metres and a maximum yield of 17 dwellings based on a density of 32 dwellings per developable hectare;</li> <li>(b) The Lot 13 DP 1092788 and the part of Lot 11 DP 1092788 and part of Lot 12 DP 1092788 owned by FP and identified in Annexure A to be acquired by PC will have no dwelling yield allocated to it and will be rezoned to RE1 Public Recreation; and</li> <li>(c) The part of Lot 11 DP 1092788 owned by FP and identified in Annexure A to be retained by FP is to be allocated a yield of 3 dwellings based on a density of 10 dwellings per developable hectare; and</li> <li>(d) The part of Lot 12 DP 1092788 owned by FP and identified in Annexure A to be retained by FP is to be allocated a yield of 13 dwellings based on a density of 32 dwellings per developable</li> </ul>

## MEMORANDUM OF UNDERSTANDING

Lot 11 DP 1092788 (FP) / Lot 12 DP 1092788 (FP) / Lot 5 DP 736961 (PC) / Lot 13 1092788 (FP)

		<p>hectare.</p> <p>PC will engage an independent consultant to prepare and progress the LEP amendment. All costs and relevant application fees in connection with the LEP amendment are to be borne equally by both parties.</p> <p>In the event that the proposed LEP amendment is not successful, the parties agree that the land swap contemplated by this MOU cannot occur and the proposed land swap arrangements will be at an end. In this event, all costs incurred, except as otherwise specified in Item 16, will be borne equally by both parties.</p>
10	<b>Subdivision</b>	<p>Following gazettal of the LEP amendment by Department of Planning &amp; Environment, PC agrees to prepare and lodge a development application to subdivide the land to reflect the change in ownership proposed by this MOU.</p> <p>PC will engage a consultant to prepare and progress the development application. All costs and relevant application fees in connection with the development application are to be borne equally by both parties.</p>
11	<b>Settlement</b>	<p>Settlement of the land swap is conditional on the following:</p> <ul style="list-style-type: none"> <li>(a) Registration of subdivision certificate in accordance with the development application described in Item 10; and</li> <li>(b) Gazettal of the LEP Amendment identified in Item 9.</li> </ul> <p>Settlement will occur within 30 days of the successful completion of both (a) and (b) above.</p>
12	<b>Storm-water infrastructure</b>	<p>An underground stormwater pipe is to be provided from the existing cul-de-sac in Fern Creek Road to Fern Creek. This pipe is to be constructed along the alignment of the existing drainage easement and is to be constructed to a standard specified by PC. The construction of this stormwater pipe is to be undertaken concurrent with the road construction. Each party is responsible for costs associated with undergrounding the section of stormwater infrastructure within their own land.</p> <p>The existing drainage easement is to be extinguished and replaced by a new easement along the same alignment and is to be of a suitable width specified by Council.</p> <p>All stormwater infrastructure required to service the future residential development is to comply with Pittwater 21 DCP, Control C6.21 Provision of Infrastructure.</p>
13	<b>Probity</b>	PC to appoint probity advisor to oversee and report on this transaction.
14	<b>Other Issues: Contamination</b>	<p>Both parties agree that as at the date of agreement of this MOU neither party is aware of any contamination affecting the properties identified in Item 3 which would make that property unsuitable for their intended use.</p> <p>FP and PC must not bring any materials or land fill onto their properties during the land swap transaction period which may cause contamination and will not allow any materials to be located on the properties which may cause contamination or detrimentally affect the land for its intended use.</p>
15	<b>Other Issues: Legal Documentation</b>	<p>PC is to prepare all legal documentation associated with this land swap.</p> <p>All reasonable costs associated with drafting and amending the legal</p>



**NORTHERN BEACHES  
COUNCIL**

**MEMORANDUM OF UNDERSTANDING**

Lot 11 DP 1092788 (FP) / Lot 12 DP 1092788 (FP) / Lot 5 DP 736961 (PC) / Lot 13 1092788 (FP)

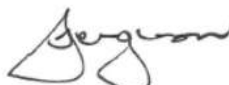
		documents leading to their signing are to be borne equally by both parties.
16	<b>Other Issues: Other Costs and Invoicing</b>	Both parties to pay their own respective legal costs, except as otherwise outlined in Item 15 above.  All other costs, except as otherwise outlined in this MOU, are to be borne equally by both parties. In relation to these costs, PC agrees to pay these costs and invoice FP monthly. FP will be consulted prior to PC accepting any quotes for services for which the costs are to be borne equally.
17	<b>Other Issues: Council endorsement</b>	The parties acknowledge that the future land swap contemplated by this MOU is subject to endorsement by the elected Council and Board approval by FP.

Agreed by Frasers Property Ltd

Date:

1/10/15

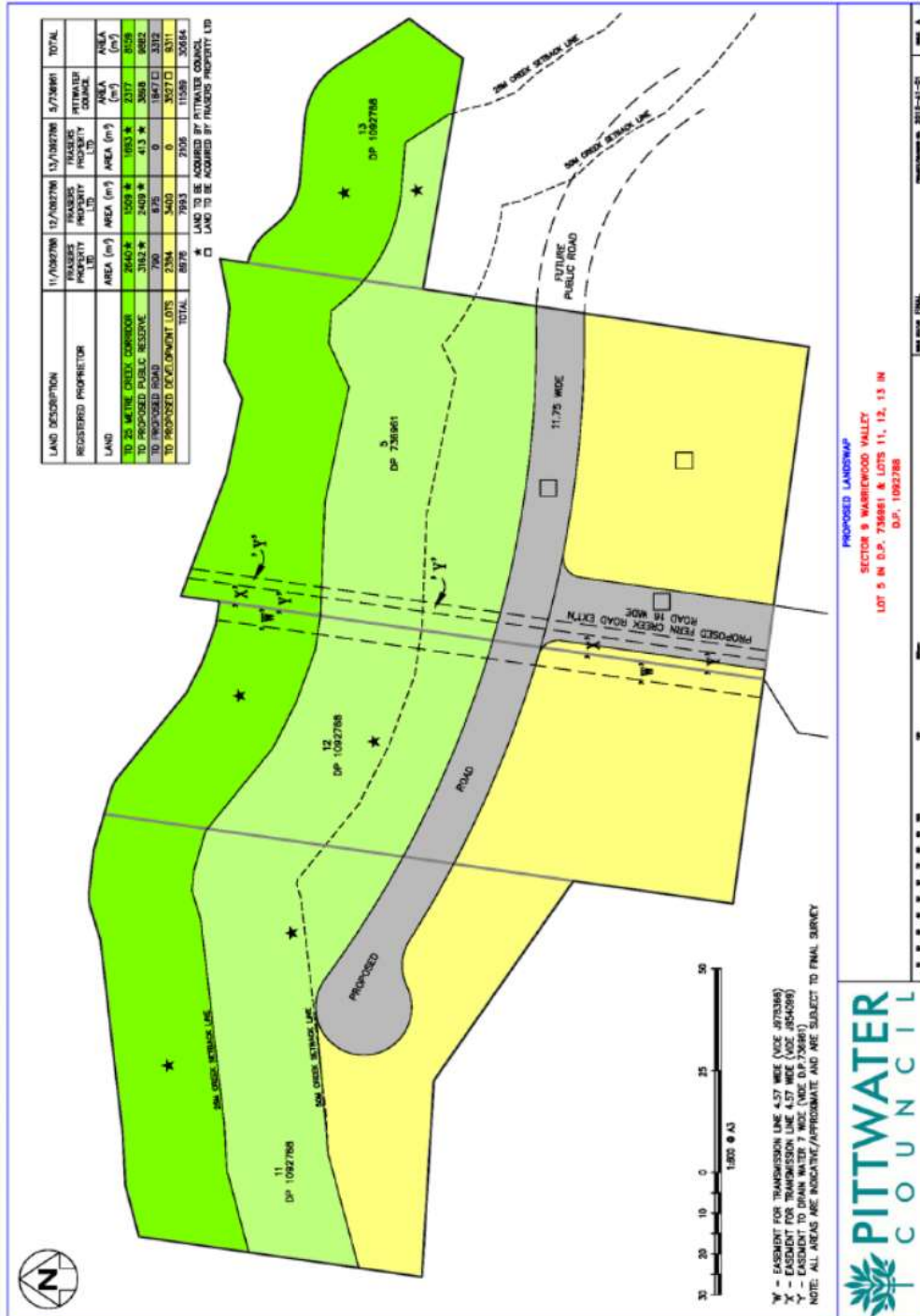
Agreed by Pittwater Council



Date: 29/9/15

NORTHERN BEACHES  
COUNCIL

ANNEXURE A



## LAND SWAP DEED

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PITTWATER COUNCIL

("Council")

and

FRASERS PROPERTY LIMITED

("FP")

  
**MatthewsFolbigg**  
Lawyers  
Matthews Folbigg Pty Ltd  
"The Barrington" Level 7  
10-14 Smith Street Parramatta 2150  
PO Box 248 Parramatta 2124  
DX 8233 Parramatta  
T 9635 7966 | F 9633 9400

8 March 2016

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**LAND SWAP DEED**

Deed dated

19 April 2016

~~2015~~**PARTIES****PITTWATER COUNCIL (ABN 61 340 837 871)** of 1 Park Street, Mona Vale NSW 2103

("Council")

**FRASERS PROPERTY LIMITED (ACN 008 443 696)** of 1 Homebush Bay Drive, Rhodes  
NSW 2138

("FP")

**RECITALS AND BACKGROUND**

- A Due to the population increase associated with the Warriewood Valley and in order to deliver greater open space by the provision of a 2 hectare Central Local Park, Council acquired an existing 1.15 hectare parcel of land (9 Fern Creek Road) in order to facilitate the southern half of the Central Local Park.
- B Due to the shape and location of such lot not matching the preferred layout for the open space land, it has been agreed that in order to better reflect and facilitate the final layout plan for such open space, that Council and FP transact a land exchange and for such acquired land by Council to be rezoned RE 1 Public Recreation by the amendment of Council's Local Environmental Plan ("LEP").
- C Council owns the Council Land and FP the FP Land.
- D Subject to the amendment of Council's LEP, Council and FP have agreed to subdivide the Council Land and FP Land respectively owned by them so as to enable:
- (a) Council to transfer the Council Development Land to FP, being an area measuring approximately 5,374.4 square metres; and
  - (b) FP to transfer to Council the FP Public Reserve Land and the FP Creek Line Corridor Land, being an area measuring approximately 11,825.5 square metres, as shown in the plan attached at Annexure A.
- E To enable the transaction contemplated by these Recitals, Council and FP have agreed to enter into this deed.



**OPERATIVE PART****1. DEFINITIONS AND INTERPRETATION**

---

**1.1 Definitions**

The following meanings apply unless the contrary intention appears:

**Business Days** means a day on which banks are open for general banking business in Sydney, New South Wales (not being a Saturday, Sunday or public holiday in that place).

**Completion Date** means the date which is on or before the date which is 30 Business Days after Council issues the notice to FP under clause 2.1(b).

**Council Development Land** means that part of the Development Land comprised in Lot 5 in Deposited Plan 736961.

**Conditions Precedent** has the meaning given to it in clause 2.1 of this deed.

**Council Land** means Lot 5 Deposited Plan 736961 (folio identifier 5/736961).

**Creek Line Corridor Land** means the land shown in dark green and marked "To 25 Metre Creek Corridor" on the plan attached to this deed as Annexure A.

**Creek Line Corridor Purchase Price** means an amount equal to [REDACTED] per square metre of the FP Creek Line Corridor Land (being approximately [REDACTED]).

**Creek Line Corridor Transfer** means a transfer of land in a registerable form in relation to the transfer of the FP Creek Line Corridor Land from FP to Council.

**Development Land** means the land shown in yellow and grey and marked "To Proposed Road" and "To Proposed Development Lots" on the plan attached to this deed as Annexure A.

**Development Land Transfer** means a registrable transfer of land form in relation to the transfer of the Council Development Land from Council to FP.

**Development Land Purchase Price** means [REDACTED]

**Duty** means any stamp, transaction or registration duty or similar charge which is imposed by the New South Wales Office of State Revenue and includes any interest, fine, penalty, charge or other amount which is imposed in relation to that duty or charge.

**FP Creek Line Corridor Land** means that part of the Creek Line Corridor Land comprised in Lots 11, 12 and 13 in Deposited Plan 109278.

**FP Land** means Lots 11, 12 and 13 in Deposited Plan 1092788 (folio identifiers 11/1092788, 12/1092788 and 13/1092788).

**FP Public Reserve Land** means that part of the Public Reserve Land comprised in Lots 11, 12 and 13 in Deposited Plan 109278.

**GST** has the meaning given to it in the GST Act.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

**GST Law** has the meaning given in the GST Act.

**LPI** means Land & Property Information, New South Wales.

**Plan of Subdivision** means the proposed plan to subdivide the FP Land and the Council Land prepared by Council and approved by FP in accordance with clause 3.2.

**Planning Agreement** means a planning agreement between Council and FP on terms acceptable to the parties (acting reasonably) and in accordance with section 93F of the *Environmental Planning & Assessment Act 1979 (NSW)* in relation to the future residential subdivision of the Development Land which includes the provisions of the MOU made and agreed to between the parties dated 1 October 2015.

- (a) construction of stormwater infrastructure in relation to the land;
- (b) extension of Fern Creek Road; and
- (c) construction of New East-West Road.

**Planning Proposal** means the planning proposal to the Department of Planning and Environment to amend Council's LEP prepared by Council and approved by FP in accordance with clause 3.1.

**Public Reserve Land** means the land shown in light green and marked "To Proposed Public Reserve" on the plan attached to this deed as Annexure A.

**Public Reserve Transfer Form** means a registrable transfer of land form in relation to the transfer of the FP Public Reserve Land from FP to Council.

**Sunset Date** means 31 December 2018.

**Undergrounding Works** means the works associated with the undergrounding of the overhead power cables and lines along Council and FP's common boundary between Lot 5 in Deposited Plan 736961 and Lot 12 in Deposited Plan 1092788.

## 1.2 References to certain general terms

Unless the contrary intention appears, in this deed:

- (a) a reference to a document (including this contract) includes any variation or replacement of it;
- (b) a reference to a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this contract;
- (c) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) the word "law" includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) the singular includes the plural and vice versa;

- (f) the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any authority;
- (g) a reference to a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (h) a reference to a body or authority includes a reference, if that body or authority ceases to exist, to the body or authority which has substantially the same functions and objects as the first body or authority;
- (i) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (j) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (k) a reference to a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (l) a reference to Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (m) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (n) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (o) a reference to accounting standards is a reference to the accounting standards as defined in the Corporations Act, and a reference to an accounting term is a reference to that term as it is used in those accounting standards, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (p) the words, "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (q) if an act under this contract to be done by a party on or by a given day is done after 5.30pm on that day, it is taken to be done on the next day;
- (r) a reference to time is a reference to time in New South Wales; and
- (s) a reference to any thing (including any amount) is a reference to the whole and each part of it.

### **1.3 Headings**

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this deed.

## 2. CONDITIONS PRECEDENT

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### 2.1 Completion conditions

- (a) Both parties agree that their respective obligations to transfer the FP Public Reserve Land, the Council Development Land and FP Creek Line Corridor Land are subject to and conditional upon:
  - (i) the Department of Planning and Environment approving the Planning Proposal;
  - (ii) registration of the Plan of Subdivision at the LPI;
  - (iii) the parties entering into the Planning Agreement; and
  - (iv) registration of the Planning Agreement at the LPI,(together the "**Conditions Precedent**").
- (b) Council must notify FP in writing within ten 10 Business Days after the Conditions Precedent have been satisfied.

### 2.2 Date for Completion

The parties must complete the transfers of the FP Public Reserve Land, the Council Development Land and the FP Creek Line Corridor Land on the Completion Date.

### 2.3 Sunset Date

The parties agree that if the Condition Precedent at 2.1(a)(i) is not satisfied by the Sunset Date, then either party may rescind this deed by serving a notice on the other.

### 2.4 Release

If this deed is rescinded under clause 2.3 then each party releases other party from any liability or loss arising in connection with the rescission of this deed, except in relation to prior breaches and the sharing of costs contemplated under clauses 4(a), 4(b) and 4(c).

## 3. COUNCIL'S OBLIGATIONS

---

### 3.1 Planning Proposal

The Council must:

- (a) procure the preparation of the Planning Proposal to achieve the following:
  - (i) that the Council Development Land be allocated a maximum building height of 10.5 metres and a maximum yield of 17 dwellings based upon a density of 32 dwellings per developable hectare;
  - (ii) that the Public Reserve Land be rezoned RE 1 Public Recreation;
  - (iii) that the part of the Development Land currently contained within Lot 11



DP 1092788 be allocated a development yield of 3 dwellings based on a density of 10 dwellings per developable hectare; and

- (iv) that the part of Development Land currently contained within Lot 12 DP 1092788 be allocated a development yield of 13 dwellings based upon a density of 32 dwellings per developable hectare; and
- (b) give FP a copy of the Planning Proposal at least 10 Business Days before Council lodges the Planning Proposal with Council's planning and assessment department; and
- (c) consult with FP in connection with any comments, suggestions or objections which FP makes or seeks to make in connection with the Planning Proposal prior to lodgement with Council's planning and assessment department; and
- (d) not lodge the Planning Proposal with Council's planning and assessment department without FP's written consent (which may be withheld until Council has complied with clauses 3.1(b) and (c), but otherwise must not be unreasonably withheld if the application is consistent with the requirements set out in clauses 3.1(a)(i) – 3.1(a)(iv)); and
- (e) lodge the Planning Proposal with Council's planning and assessment department for approval within 5 Business Days after FP consents to the Planning Proposal; and
- (f) must not seek to amend the Planning Proposal after it has been lodged with Council's planning and assessment department without FP's written consent (which must not be unreasonably withheld if the amendment is consistent with the requirements set out in clauses 3.1(a)(i) – 3.1(a)(iv));

### **3.2 Plan of Subdivision**

The Council must:

- (a) prepare the Plan of Subdivision in a form suitable for registration at the LPI to achieve the following:
  - (i) create separate lots comprising the Council Development Land, the FP Public Reserve Land and the FP Creek Line Corridor Land to allow the transfers contemplated under this deed; and
  - (ii) create the easements for transmission and draining shown on the Plan; and
- (b) prepare a development application in connection with the Plan of Subdivision and provide a copy of the Plan of Subdivision and any supporting documents (including any appropriate instrument under Section 88B of the *Conveyancing Act 1919 (NSW)* to FP and consult with FP in connection with the terms of such application and documentation.
- (c) not lodge the Plan of Subdivision or any supporting documents with the LPI without FP's written consent (which may be withheld until Council has complied with clauses 3.2 (b) but otherwise must not be unreasonably withheld if the application is consistent with the requirements set out in clauses 3.2(a)(i) – 3.2(a)(ii));



- (d) lodge the Plan of Subdivision with the LPI within 5 Business Days after FP consents in writing to the Plan of Subdivision;

#### 4. FP'S OBLIGATIONS

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FP must:

- (a) provide its consent to the lodgement in relation to the development application for the Plan of Subdivision once the Council's obligations in 3.2(b) have been satisfied and simultaneously submit the Planning Agreement to Council.
- (b) contribute 50% towards Council's reasonable and properly incurred costs of preparation and submission (including application fees) of the Planning Proposal to amend Council's LEP within 5 Business Days of receipt of a valid tax invoice from Council;
- (c) contribute 50% towards Council's reasonable and properly incurred legal costs associated with the drafting, negotiations and execution of this deed (plus GST and disbursements) and Council's surveyors costs.
- (d) contribute 50% towards Council's reasonable and properly incurred costs of engaging a consultant to prepare and progress a development application with respect to the subdivision of Council's and FP's Land within 5 Business Days of receipt of a valid tax invoice from Council;
- (e) contribute 50% towards the reasonable and properly incurred costs of the approved design and construction (including any associated infrastructure required by Ausgrid) of the Undergrounding Works within 5 Business Days of receipt of a valid tax invoice from Council;
- (f) provided that Council have complied with clause 3.2 of this deed, execute any documents necessary to facilitate registration of the Plan of Subdivision within 5 Business Days of receipt from Council or its solicitors and return such executed documents to Council or its solicitor;
- (g) procure the consent of any mortgagee of the FP Land to the Plan of Subdivision and arrange for the execution by any such mortgagee of any documents necessary to facilitate registration of the Plan of Subdivision;
- (h) produce, or procure production by any mortgagee of the certificates of Title for the FP Land at LPI NSW to facilitate the registration of the Plan of Subdivision;
- (i) remove at FP's cost any caveat or other encumbrance on the land being transferred by it which may prohibit registration of the Plan of Subdivision; and
- (j) do anything reasonably required of it to assist the Council in the obtaining of any necessary approval for registration of the Plan of Subdivision, including compliance with any requisition raised by LPI NSW relating to the Plan of Subdivision.

## 5. LAND SWAP

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### 5.1 Transfers of the Development and Public Reserve Land

Subject to the satisfaction of the Conditions Precedent, the parties agree that FP will transfer all its estate and interest in the FP Public Reserve Land to Council and pay the Development Land Purchase Price (less any applicable credits that FP receives under clause 5.2 below) to Council on the Completion Date in exchange for the Council simultaneously transferring its estate and interest in the Council Development Land to FP in accordance with the procedures set out in this deed.

### 5.2 Acquisition of the Creek Line Corridor Land

- (a) Subject to satisfaction of the Conditions Precedent, Council agrees to acquire the FP Creek Line Corridor Land from FP on the Completion Date at a value of the Creek Line Corridor Price in accordance with the Warriewood Valley Section 94 Contributions Plan (Plan 15) (Amendment 16) (Revision 1).
- (b) The parties agree that the Creek Line Corridor Price payable by Council for the acquisition of the FP Creek Line Corridor Land must be utilised by FP by way of an offset against the Development Land Purchase Price payable by FP to Council under clause 5.1.

### 5.3 Interdependence

The transactions described in clauses 5.1 and 5.2 are interdependent. If one party defaults in respect of its obligation in clause 5.1 or 5.2, the other party need not comply with its obligation unless and until the first party remedies its default. If the transactions described in clause 5.1 or 5.2 do not proceed, any party which has carried out an action in anticipation of those transactions proceeding may undo such action.

### 5.4 Instruments of transfer

In respect of:

- (a) the transfer contemplated under clause 5.1, Council must deliver the stamped Development Land Transfer duly executed by Council to FP at least 5 Business Days before the Completion Date;
- (b) the transfer contemplated under clause 5.1, FP must deliver the stamped Public Reserve Transfer duly executed by FP to Council at least 5 Business Days before the Completion Date; and
- (c) the transfer contemplated under clause 5.2, Council must deliver the stamped Creek Line Corridor Transfer duly executed by Council to FP at least 5 Business Days before the Completion Date.

### 5.5 Acknowledgement

For the purposes of Section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* it is acknowledged that the agreement contained in this deed is an agreement on all relevant matters relating to the acquisition by the Council of FP Public Reserve Land and the FP Creek Line Corridor Land and that no other compensation whatsoever will be payable by the Council to FP.

**5.6 No adjustments**

No adjustment will take place between the Council and FP in relation to any council rates or charges, water and sewer rates and charges or any land tax that may be charged upon the FP Public Reserve Land or the FP Creek Line Corridor Land provided that FP must pay all such outgoings in respect of the FP Public Reserve Land or the FP Creek Line Corridor Land owned by it for the rate periods current as at the Completion Date.

**6. COMPLETION**

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**6.1 Completion**

On the Completion Date:

- (a) Council must:
  - (ii) deliver the stamped and fully executed Development Land Transfer to FP along with a direction addressed to LPI in favour of FP authorising the issuing of the resultant Certificate of Title directly to FP; and
  - (iii) ensure that the certificate of title for the Council Development Land is placed on deposit at LPI; and
- (b) FP must:
  - (i) deliver the stamped and fully executed Public Reserve Land Transfer and the Corridor Creek Transfer to Council along with a direction addressed to LPI in favour of Council authorising the issuing of the resultant Certificate of Title directly to Council;
  - (ii) ensure that the certificates of title for the FP Public Reserve Land and the FP Corridor Creek Transfer are placed on deposit with LPI; and
  - (iii) subject to clause 5.2(b), a Settlement Cheque for an amount equal to the Development Land Purchase Price less the Creek Line Corridor Purchase Price.

**7. UNDERGROUNDING OF OVERHEAD POWER**

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- (a) Council must procure Ausgrid's approved design and construction estimates in relation to the Undergrounding Works and provide them to FP as soon as reasonably practicable.
- (b) The parties agree that the Undergrounding Works will be undertaken by a third party contractor appointed by Council (and approved by FP acting reasonably). The costs of the Undergrounding Works will be paid for directly by Council. FP will contribute to those costs in accordance with clause 4(e).



**8. DUTY AND LEGAL COSTS**

---

**8.1 Duty**

In relation to Duty chargeable, payable or assessed in relation to this agreement or any transaction contemplated by this agreement:

- (a) FP agrees to pay the Duty in relation to the transfer of the Council Development Land and indemnifies and must keep indemnified Council against any liability to Duty which is the responsibility of FP pursuant to this clause 8.1(a); and
- (b) Council agrees to pay the Duty in relation to the transfer of the FP Public Reserve Land and the FP Creek Line Corridor Land and indemnifies and must keep indemnified FP against any liability to Duty which is the responsibility of Council pursuant to this clause 8.1(b).

**8.2** Except as otherwise provided for in this agreement, each party will be responsible for its own legal fees in relation to:

- (a) the negotiation and execution of this agreement; and
- (b) otherwise in relation to the transfer of the Council Land and FP Land.

**9. GST**

---

**9.1 Consideration GST inclusive**

Aside from the consideration payable for the transfers contemplated in clause 5.1, all amounts payable or consideration to be provided under this agreement are exclusive of GST.

**9.2 Payment of GST**

Subject to clause 9.3, if GST is payable on any supply made under this agreement, for which the consideration is not expressly stated to include GST, the recipient agrees to pay to the supplier an additional amount equal to the GST payable at the same time that the consideration for the supply, or the first part of the consideration for the supply (as the case may be), is to be provided.

**9.3 Tax invoice**

The supplier must issue a tax invoice to the recipient of a taxable supply at the same time that the supplier makes a taxable supply.

**9.4 Adjustments**

If the amount of GST payable in relation to a taxable supply varies from the amount paid, or set off by, by the recipient in accordance with this clause agreement, then the supplier will provide a corresponding refund or credit to, or will be entitled to receive an additional amount of GST from, the recipient and the supplier will issue an adjustment note.

**9.5 Reimbursements**

If a party is required under this agreement to indemnify another party, or pay or reimburse costs of another party, that party agrees to pay the relevant amount less any input tax credits to which the other party (or to which the representative member for a GST group of which the other party is a member) is entitled.

**9.6 Interpretation**

For the purposes of this clause 9

- (a) a term which has a defined meaning in the GST Act has the same meaning when used in this clause 9; and
- (b) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as though it is a separate supply.

**10. MISCELLANEOUS PROVISIONS**

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**10.1 Governing Law**

This Deed shall be governed by and construed in accordance with the laws of the State of New South Wales.

**10.2 Jurisdiction**

Any legal action or proceedings with respect to this Deed against any party or any of its property and assets may be brought in the Courts of the State of New South Wales and, by execution and delivery of this Deed that party accepts, for itself and in respect of its property and assets, generally and unconditionally the jurisdiction of the Courts of that State.

**10.3 Variations**

Any amendments, variation or modification to or of, or consent to departure by any party from the terms of this Deed shall have no force or effect unless effected by a document executed by the parties.

**10.4 Third Parties**

This Deed shall confer rights and benefits only upon a person expressed to be a party and not upon any other person.

**10.5 Assignment**

A party shall not transfer or assign its rights or obligations under this Deed without the prior consent in writing of the other party.

**10.6 Waivers**

The failure to exercise or delay in exercising by any party of any right conferred by this Deed shall not operate as a waiver and the single or partial exercise of any right by that party shall not preclude any other or further exercise of that or any other right by that party.



**10.7 Remedies**

The rights of a party conferred by this Deed are cumulative and are not exclusive of any rights provided by law.

**10.8 Entire agreement**

This deed constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter except for the provisions related to and to be contained within the Planning Agreement.

**10.9 Further Assistance**

Each party shall execute all documents and perform all acts necessary to give full effect to this deed.

**10.10 Severability**

Any provision of this Deed which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of that prohibition or unenforceability, without invalidating the remaining provisions of this deed or affecting the validity or enforceability of that provision in any other jurisdiction.

**10.11 Counterparts**

This deed may be executed in any number of counterparts, all of which taken together shall be deemed to constitute one and the same document.

**11. DISPUTE RESOLUTION**

**11.1** All disputes or differences arising out of this deed will be resolved in accordance with this clause 10, unless:

- (a) a party is seeking urgent interlocutory relief or a remedy where a delay in commencing proceedings in Court could prejudice the party's entitlement to seek that remedy;
- (b) an incident has arisen that requires urgent resolution which mediation might not resolve; or
- (c) the process in the remainder of this clause 10 has been exhausted.

**11.2 Notice of Dispute**

Either party may at any time notify the other party in writing that there is a dispute or difference concerning any matter in this deed (**Notice of Dispute**). That Notice of Dispute must:

- (a) identify the subject matter of the dispute;
- (b) identify the relevant provisions of this deed;
- (c) annex copies of any correspondence, or background material and information relevant to that dispute; and

- (d) contain any particulars of quantification of the dispute.

#### 11.3 Parties to Confer

The parties must, within twenty-one (21) days of the service of the Notice of Dispute, meet in an attempt to discuss, and to reach a mutually acceptable decision, on the matter of the dispute.

#### 11.4 Referral to Mediation

If:

- (a) the matter in dispute is not settled within ten (10) business days of the meeting referred to in the preceding paragraph, or such later date as the parties may agree; or
- (b) either party refuses to attend a meeting in accordance with clause 11.3; then
- (c) the difference or dispute must be the subject of a mediation administered by the Australian Commercial Dispute Centre (ACDC) conducted and held in accordance with the mediation rules of the ACDC in force at the time of the appointment of a mediator.

#### 11.5 The mediator will be appointed:

- (a) by the parties, from a panel suggested by the ACDC within twenty-eight (28) days of the referral of the difference or dispute for mediation; or
- (b) if a mediator is not appointed by agreement within that period, by the Secretary-General of the ACDC at the request of either party.

- 10.6 The costs of and associated with formal mediation before a mediator under this clause are to be paid by the parties to the mediation in such proportions as they may agree among themselves or, failing agreement, in equal shares.

### 12. NOTICES

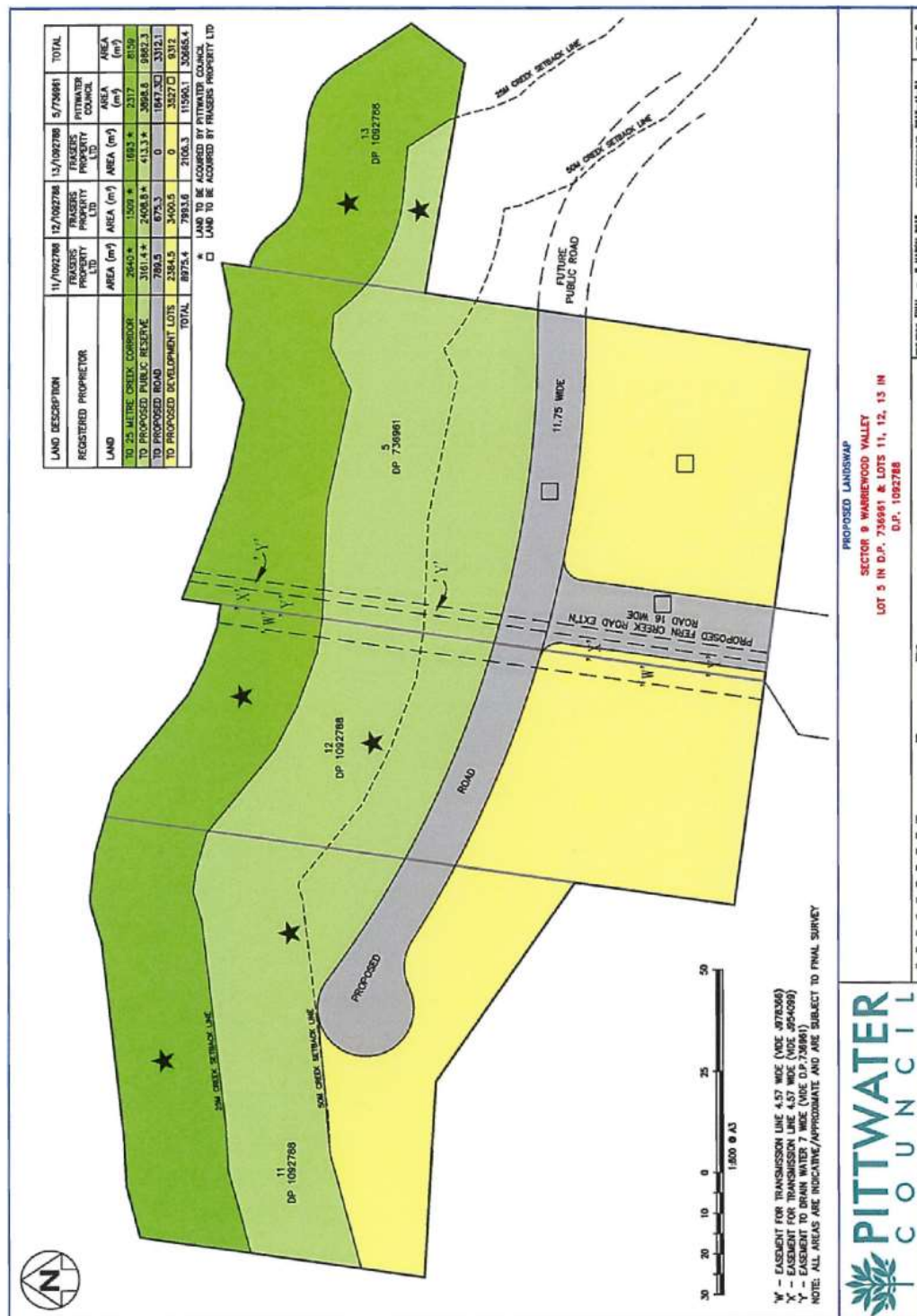
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Any notice given under this deed:

- (a) must be in writing addressed to the intended recipient at the address shown in the Deed or at the address last notified by the intended recipient to the sender;
- (b) must be signed by a person duly authorised by the sender;
- (c) will be taken to have been given when delivered, received or left at the address shown in this deed.

If delivery or receipt occurs on a date when business is not generally carried on in the place to which the notice is sent, or is sent later than 4.00pm (local time), it will be taken to have been duly given at the commencement of business on the next day when business is generally carried on in that place.

**ANNEXURE "A"**

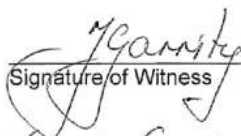


EXECUTION

Executed as Deed

Executed by the General Manager on behalf  
of **PITTWATER COUNCIL (ABN 61 340 837  
871)** pursuant to a delegation dated  
under section 377 of the *Local Government  
Act 1993* (NSW):



  
Signature of Witness

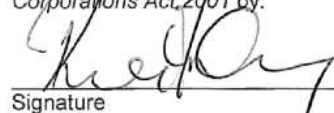
FIONA GARRITY  
Name of Witness [BLOCK LETTERS]

  
General Manager

MARK FERGUSON  
Name of General Manager [BLOCK LETTERS]

5 VUKO PLACE WARRIWOOD  
Address of Witness NSW 2102  
29/3/2016.

EXECUTED by **FRASERS PROPERTY  
LIMITED (ACN 008 443 696)** in accordance  
with the requirements of section 127(1) of the  
*Corporations Act, 2001* by:

  
Signature

RODNEY VAUGHAN FEHRING  
Name of Director

  
Signature

JANIS SHARON WOOD  
Name of Secretary



**Northern Beaches Council ABN 57 284 295 198**

**(“Council”)**

and

**Frasers Property AHL Limited ABN 12 008 443 696**

**(“Developer”)**

## **Planning Agreement**

*Environmental Planning and Assessment Act, 1979 (NSW)*

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THIS Agreement is dated

2018

**PARTIES:**

Northern Beaches Council (ABN 57 284 295 198) of 725 Pittwater Road, Dee Why, New South Wales  
(**Council**)

and

Fraser's Property AHL Limited (ABN 12 008 443 696) of 1 Homebush Bay Drive, Rhodes, New South  
Wales (**Developer**)

**1 INTRODUCTION**

- A. Council owns Lot 5 in Deposited Plan 736961 (**Council Land**) and the Developer owns Lots 11, 12 and 13 in Deposited Plan 1092788 (**Developer Land**).
- B. Subject to the amendment of the Pittwater LEP, Council and the Developer have agreed to swap parts of Council Land and Developer Land (**the Land Swap**) to enable the Council to extend a proposed public park and to enable residential development on the land transferred to the Developer following the Land Swap.
- C. The Land Swap is the subject of a separate agreement between the Parties and is conditional upon the Parties entering into this Agreement.
- D. The Developer has made an offer to the Council to enter into this Agreement to ensure the provision at its cost of public benefits in connection with a development application proposed for the Developer Land, being the construction of an extension of Fern Creek Road and the construction of new east-west road connecting Fern Creek Road with the eastern half of Sector 9 of the Release Area, the provision of associated stormwater infrastructure and a 50% contribution towards the cost of undergrounding high voltage power lines that run along the current boundary at 9 and 12 Fern Creek Road.

**IT IS AGREED:**

**2 DEFINITIONS AND INTERPRETATION**

**2.1 Definitions**

In this **Agreement**, unless the context clearly indicates otherwise:

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW) (as amended).

**Address for Service** means the address of each Party appearing in Schedule 2 or any new address notified by any Party to all other Parties as its new Address for Service.

**Agreement** means this planning agreement between the Parties.

**Approval** means any approvals, consents, certificates, permits, endorsements, licences, conditions or requirements (and any modifications or variations to them) which may be required by law or an Authority.

**Authority** means any Federal, State or local government or semi-governmental, statutory, judicial or public person, instrumentality or department.

**Business Day** means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in Sydney, and concludes at 5 pm on that day.

**Commencing Date** means the date of this Agreement.

**Construction Certificate** has the same meaning as in the Act, granted in respect of any development consent given for the Developer Land.

**Conveyancing Act** means the *Conveyancing Act 1919* (NSW) (as amended).

**Council Contribution** means the contributions as set out in clause 5.2 and Schedule 5.

**Council Land** means Lot 5 in Deposited Plan 736961.

**Council's Representative** means the person specified in Schedule 2 who is duly authorised to give approval under this Agreement or such other person as notified by the Council from time to time.

**Covenant** means a binding agreement in form and terms capable of being registered by the Registrar-General in the relevant folio of the Register and may include a public positive covenant, a provision in a strata management statement or other form of registrable document.

**Development Application** means any development application made for residential subdivision or other development of the Developer Land, whether or not that application is made in conjunction with a proposal to develop adjoining land.

**Developer Contributions** means the aggregate of the:

- (a) Fern Creek Road Works;
- (b) East-West Road Works;
- (c) Stormwater Infrastructure Embellishment Contribution – Developer.

to be provided by the Developer at no cost or risk to Council and in accordance with this Agreement, and:

- (d) a 50% contribution towards the cost of undergrounding high voltage power lines that run along the current boundary at 9 and 12 Fern Creek Road;

as set out in Schedule 4.

**Developer Creek Line Corridor Land** means the land shown in dark green and marked "To 25 Metre Creek Corridor" on the Plan at Schedule 7.

**Developer Land** means Lots 11, 12 and 13 in Deposited Plan 1092788.

**Developer's Representative** means the person specified in Schedule 2 who is duly authorised to give and receive notices under this Agreement as agent for the Developer, or such other person as notified by the Developer to Council from time to time.



**Dispute** means a dispute or difference between the Parties under or in relation to this Agreement.

**East-West Road Works** means all works required for the construction of the new east-west road connecting Fern Creek Road with the eastern half of Sector 9 shown in the Plan at Schedule 6 to be completed by the Developer at the Developer's cost in accordance with clause 3 of Schedule 4, so that it complies with the requirements of a "Local Road" under the Warriewood Valley Roads Masterplan.

**Explanatory Note** means the note exhibited with a copy of this Agreement when this Agreement is made available for inspection by the public pursuant to the Act, as required by the Regulation.

**Fern Creek Road Works** means all works required for the northern extension of Fern Creek Road shown in the Plan at Schedule 6 to be completed by the Developer at the Developer's cost in accordance with clause 2 of Schedule 4, so that it complies with the requirements of a "Local Road" under the Warriewood Valley Roads Masterplan.

**GST** has the same meaning as in the GST Law.

**GST Law** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST (as amended).

**Improvements** means all structures, improvements, fixtures and equipment constructed, erected or installed on Council Land or Developer Land from time to time (including but not limited to any support columns, foundations or footings constructed).

**Land** means the land described in Schedule 3 of this Agreement, or any further subdivision, consolidation or amalgamation of those titles.

**Land Swap** means the land swap the subject of a separate agreement between the Parties as indicated on the proposed land swap plan at Schedule 7 of this Agreement.

**Law** means any constitution or provision, statute, act, regulation, rule, ordinance, proclamation, subordinate legislation, delegated legislation, by-law, judgment rule of common law or equity, rule approval consent or condition of approval or consent imposed by a competent entity exercising statutory jurisdiction in the relevant matter. Development Consent and/or this Agreement is invalid and includes but is not limited to any proceedings in which such a declaration is sought which are heard on remitter from another Court following an appeal.

**LEP** means the *Pittwater Local Environmental Plan 2014*.

**Lot** means each lot or individual parcel comprising the Land.

**LRS** means the Land Registry Services Division of the NSW Department of Finance and Services.

**Occupation Certificate** has the same meaning as in the Act and includes an interim Occupation Certificate.

**Party** means a party to this Agreement and includes their successors and assigns.

**Plan** means the plan at Schedule 6 of this Agreement showing the location of the Developer Contributions and the location and details of the Stormwater Infrastructure Embellishment Works – Council.

**Release Area** means the land identified as Warriewood Valley Release Area on the *Urban Release Area Map* in the LEP.

**Stormwater Infrastructure Embellishment Works – Developer** means all works associated with the embellishment of the stormwater infrastructure to be undertaken by the Developer at the Developer's cost that is required to be located within the Fern Creek Road Works, in accordance with clause 4 of Schedule 4.

**Stormwater Infrastructure Embellishment Works – Council** means all works associated with the embellishment of the stormwater infrastructure to be undertaken by the Council at the Council's cost that are required to be located between the Fern Creek Road Works and Fern Creek, being an underground stormwater pipe detailed on the Plan, in accordance with clause 2 of Schedule 5.

**Subdivision Certificate** has the same meaning as in the Act, granted in respect of any development consent given for the Developer Land.

**Real Property Act** means the *Real Property Act 1900* (NSW) (as amended).

**Register** means the Torrens title register maintained under the Real Property Act.

**Registrar-General** means the Registrar-General who maintains the Register.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000* (NSW) (as amended).

**Related Bodies Corporate** has the same meaning as in clause 50 of the *Corporations Act 2001* (Cth).

**Sector 9** means the land at Warriewood Valley with an approximate site area of 17.1 hectares that borders Fern Creek to the north, Garden Street to the east, Orchard Street to the south, and the escarpment to the west.

**Tax** means a tax, duty (including stamp duty and any other transaction duty), levy, impost, charge, fee (including a registration fee) together with all interest, penalties, fines and costs concerning them.

**Warriewood Valley Roads Masterplan** means Warriewood Valley Roads Master Plan 2018.

**Warriewood Valley Landscape Masterplan** means Warriewood Valley Landscape Masterplan and Design Guidelines (Public Domain) 2018.

## 2.2 Interpretation

In this Agreement unless the context clearly indicates otherwise:

- (a) a reference to **this Agreement** or another document means this Agreement or that other document and any document which varies, supplements, replaces, assigns or novates this Agreement or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the **introduction**, a **clause**, **schedule** or **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this Agreement;
- (e) **clause headings**, the **introduction** and the **table of contents** are inserted for convenience only and do not form part of this Agreement;
- (f) the **schedules** form part of this Agreement;
- (g) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (h) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (i) a reference to a **corporation** includes its successors and permitted assigns;
- (j) a reference to a **right** or **obligation** of a Party is a reference to a right or obligation of that Party under this Agreement;
- (k) the obligations of a Party are **joint** and **several**, but an obligation of a Developer binds that Developer individually only;
- (l) a requirement to do **anything** includes a requirement to cause that thing to be done and a requirement not to do **anything** includes a requirement to prevent that thing being done;
- (m) **including** and **includes** are not words of limitation;
- (n) a **word** that is derived from a defined word has a corresponding meaning;
- (o) **monetary amounts** are expressed in Australian dollars and all amounts payable under this Agreement are payable in Australian dollars;
- (p) the **singular** includes the **plural** and vice-versa;
- (q) words importing one **gender** include all other genders;
- (r) a reference to a **thing** includes each part of that thing;
- (s) neither this Agreement nor any part of it is to be construed against a Party on the basis that the Party or its lawyers were responsible for its drafting; and

- (t) a word defined in the Act has the same meaning in this Agreement, unless otherwise defined.

### **3 OPERATION AND APPLICATION OF THIS AGREEMENT**

#### **3.1 Operation**

- (a) This Agreement constitutes a planning agreement within the meaning of section 7.4 of the Act and is binding on each Party to it and their respective heirs, successors, transferees and assignees.
- (b) This Agreement operates from the Commencing Date and ends in accordance with clause 9 of this Agreement.
- (c) The Council and the Developer warrant and represent that this Agreement creates legally binding and valid obligations enforceable against the other Party in accordance with its terms.

#### **3.2 Planning Agreement under the Act**

This Agreement constitutes a planning agreement within the meaning of section 7.4 of the Act, governed by subdivision 2 of Division 7.1 of Part 7 of the Act.

### **4 APPLICATION OF SECTIONS 7.11, 7.12 or 7.24 OF THE ACT**

This Agreement does not exclude the application of sections 7.11, 7.12 or 7.24 of the Act to the development, and the Developer Contributions are not to be taken into consideration in determining any section 7.11 contribution relating to a Development Application.

### **5 CONTRIBUTIONS AND ACKNOWLEDGEMENTS**

#### **5.1 Developer to provide Contributions**

The Developer undertakes at its cost and risk, to provide to the Council, the Developer Contributions in accordance with Schedule 4 and otherwise in accordance with this Agreement.

#### **5.2 Council to provide Contributions**

The Council will provide the Council Contributions in accordance with Schedule 5 and otherwise in accordance with this Agreement.

#### **5.3 Dedication of Land**

- (a) A contribution comprising the dedication of land is made for the purposes of this Agreement when a deposited plan is registered in the register of plans held with the Registrar-General that dedicates the land the subject of the East-West Road Works and the land the subject of the Fern Creek Road Works as a public road under the *Roads Act 1993* (NSW).
- (b) The Developer must not dedicate any land for the purposes of this Agreement until:



- (i) the Developer has received confirmation in writing from the Council's Representative that the Council is satisfied the Developer Contributions have been carried out in accordance with clause 5.5(a) of this Agreement; and
- (ii) a Subdivision Certificate has been issued.

#### 5.4 Council acknowledgments

- (a) The Council acknowledges that the land dedicated to the Council under this Agreement is free of all encumbrances and affectations except for:
  - (i) the encumbrances identified in Schedule 8;
  - (ii) any sewer, drainage, electricity, gas, telecommunication or other services or facilities as otherwise agreed in writing by the Council; and
  - (iii) any other encumbrances reasonably agreed in writing between the Parties.
- (b) Despite any other provision in this Agreement, after the land is dedicated to the Council in accordance with clause 5.3, the Council accepts ownership, possession and control of that land and of any Developer Contributions carried out on that land.

#### 5.5 Developer and Council Contributions

- (a) Without limiting any other provision of this Agreement, any Developer and Council Contributions that are required to be carried out by the Developer and/or the Council under this Agreement are to be carried out in accordance with any reasonable design or specification specified by the consent authority for the development and in accordance with any relevant Approval and any other applicable Law.
- (b) Developer Contributions required to be carried out by the Developer under this Agreement are completed for the purposes of this Agreement when they have been completed in accordance with clause 5.5(a) and a Subdivision Certificate for residential development of the Developer Land has been issued.
- (c) Council Contributions required to be carried out by Council under this Agreement are completed for the purposes of this Agreement when they have been completed in accordance with clause 5.5(a) and a Subdivision Certificate for residential development of the Developer Land has been issued.

#### 6 REGISTRATION & ENFORCEMENT

Within 30 days of the execution of this Agreement, the Developer will at its cost procure the registration of this Agreement in accordance with section 93H of the *Real Property Act 1900* (NSW) in the relevant folios of the register for the Land.

#### 7 RELEASE

##### 7.1 Release and discharge of Agreement by Council

The Council must promptly do all things reasonably required by the Developer to release and discharge this Agreement from the title to the Land (such that the Agreement is no longer



registered by the Registrar-General under section 93H of the Act in relation to the Land) when requested by the Developer, upon the Council's Representative being satisfied, acting reasonably, that the Developer has provided all Developer Contributions under this Agreement.

## **8 DISPUTE RESOLUTION**

### **8.1 Dispute Resolution – mediation**

- (a) This clause applies to any Dispute arising in connection with this Agreement.
- (b) Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- (c) If a notice is given under clause 8.1(b), the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- (d) If the Dispute is not resolved within a further 28 days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- (e) If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- (f) Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- (g) The Parties are to share equally the costs of the President, the mediator, and the mediation.

### **8.2 Not use information**

The Parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this clause 8 is to attempt to settle the Dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this clause 8 for any purpose other than in an attempt to settle the Dispute, except to the extent that such information or documents are otherwise publicly available or came into the possession of a Party other than during the dispute resolution process.

### **8.3 No prejudice**

This clause 8 does not prejudice the right of a Party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this Agreement.

## **9 TERMINATION**

This Agreement ends on the first to occur of the following:

- (a) the Agreement is terminated by operation of law;

- (b) all the obligations on the Parties under this agreement are performed or satisfied by the Parties;
- (c) the Parties agree in writing that the development of the Developer Land will not proceed and any relevant development consent for the Developer Land is surrendered to Council;
- (d) any relevant development consent relating to the Developer Land lapses within the meaning of section 95 of the Act.

## 10 GST

### 10.1 Construction

In this clause 10:

- (a) unless there is a contrary indication, words and expressions which are not defined in this document but which have a defined meaning in the GST Law have the same meaning as in the GST Law;
- (b) GST Law has the same meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act; and
- (c) references to GST payable and input tax credit entitlements include:
  - (i) notional GST payable by, and notional input tax credit entitlements of the Commonwealth, a State or a Territory (including a government, government body, government corporation, authority, agency or instrumentality of the Commonwealth, a State or a Territory); and
  - (ii) GST payable by, and the input tax credit entitlements of, the representative member of a GST group of which the entity is a member

### 10.2 Consideration GST exclusive

- (a) Unless otherwise expressly stated, all consideration, whether monetary or non-monetary, payable or to be provided under or in connection with this document is exclusive of GST (**GST exclusive consideration**).

### 10.3 Application of Divisions 81 and 82

Without limiting the application of clauses 10.4 to 10.10 the Parties intend to apply Division 81 and Division 82 of the GST Law to supplies made under or in connection with this document to the extent permitted by law.

### 10.4 Payment of GST

If GST is payable on any supply made by:

- (a) a party; or

- (b) an entity that is taken under GST Law to make the supply by reason of the capacity in which a Party acts,

(Supplier) under or in connection with this document, the recipient of the supply, or the Party providing the consideration for the supply, must pay to the Supplier an amount equal to the GST payable on the supply.

#### 10.5 Timing of GST payment

The amount referred to in clause 10.4 must be paid in addition to the GST exclusive consideration at the same time and in the same manner (without any set-off or deduction) that the GST exclusive consideration for the supply is payable or to be provided.

#### 10.6 Tax Invoice

The Supplier must deliver a tax invoice or an adjustment note to the recipient of a taxable supply before the Supplier is entitled to a payment under clause 10.4.

#### 10.7 Adjustment event

If an adjustment event arises in respect of a supply made by a Supplier under or in connection with this document, any amount that is payable under clause 10.4 will be calculated or recalculated to reflect the adjustment event and a payment will be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.

#### 10.8 Reimbursements

- (a) Where a Party is required under or in connection with this document to pay for, reimburse or contribute to any expense, loss, liability or outgoing suffered or incurred by another Party or indemnify another Party in relation to such an expense, loss, liability or outgoing (**Reimbursable Expense**), the amount required to be paid, reimbursed or contributed by the first Party will be reduced by the amount of any input tax credits to which the other Party is entitled in respect of the Reimbursable Expense.
- (b) This clause 10.8 does not limit the application of clause 10.4, if appropriate, to the Reimbursable Expense as reduced in accordance with clause 10.8(a).

#### 10.9 No merger

This clause 10 will not merge on completion or termination of this Agreement.

### 11 ASSIGNMENT AND NOVATION

#### 11.1 Consent

No Party may assign the rights or benefits of this Agreement to any person except in accordance with clause 11.2 and 11.3 or otherwise with the consent of the other Party.

#### 11.2 Developers' rights to transfer Land

- (a) Subject to 11.2(b), the Developer must not sell or transfer to another person the whole or part of any part of the Land on which this Agreement remains registered under section 93H of the Act.

- (b) Notwithstanding clause 11.2(a), the Developer may sell or transfer the whole or any part of the Land (as the case may be) to a transferee if prior to the proposed sale or transfer the Developer satisfies the Council that it has received an acknowledgement from the transferee of its obligation to comply with this Agreement.
- (c) The Developers will pay the Council's reasonable costs and expenses incurred under this clause 11.2.

### **11.3 Transfer of land between Developer and Related Bodies Corporate**

- (a) The provisions of clause 11.2 do not apply where a Developer transfers any part of the Land it owns to any of its Related Bodies Corporate.
- (b) The Related Body Corporate receiving the transfer under clause 11.3(a) must notify the Council in writing within 20 Business Days of the transfer indicating that the transfer has occurred and identifying that the Land, or any part thereof, has been transferred.

## **12 CAPACITY**

### **12.1 General warranties**

Each Party warrants to the other Party that this Agreement creates legal, valid and binding obligations, enforceable against the relevant Party in accordance with its terms.

### **12.2 Power of attorney**

If an attorney executes this Agreement on behalf of any Party, the attorney declares that it has no notice of the revocation of that power of attorney.

## **13 GENERAL PROVISIONS**

### **13.1 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between all the Parties, whether orally or in writing.

### **13.2 Variation**

This Agreement must not be varied except by a later written document executed by all Parties.

### **13.3 Waiver**

A right created by this Agreement cannot be waived except in writing signed by the Party entitled to that right. Delay by a Party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a Party of a right operate as a subsequent waiver of the same right or of any other right of that Party.

**13.4 Further assurances**

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests that are necessary or desirable to give full effect to the arrangements contained in this Agreement.

**13.5 Time for doing acts**

- (a) If:
- (i) the time for doing any act or thing required to be done; or
  - (ii) a notice period specified in this Agreement,
- expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

**13.6 Governing law and jurisdiction**

- (a) The laws applicable in New South Wales govern this Agreement.
- (b) The Parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

**13.7 Severance**

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

**13.8 Compliance with Laws**

If a Law is changed or a new Law comes into force (both referred to as "**New Law**") and the Developers are obliged by the New Law to do something or pay an amount for a purpose which it is already contractually obliged to do or pay under this Agreement then, to the extent only that the relevant obligation is required under both the New Law and this Agreement, compliance with this Agreement will constitute compliance with the New Law and compliance with the New Law will constitute compliance with this Agreement.

**13.9 Requirements under section 7.4 of the Act**

The Parties acknowledge and agree that the table in Schedule 1 provides for certain terms, conditions and procedures for the purpose of the Agreement complying with the Act.

**13.10 Preservation of existing rights**

The expiration or termination of this Agreement does not affect any right that has accrued to a Party before the expiration or termination date.



**13.11 No merger**

Any right or obligation of any Party that is expressed to operate or have effect on or after the completion, expiration or termination of this Agreement for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

**13.12 Counterparts**

This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

**13.13 Relationship of Parties**

Unless otherwise stated:

- (a) nothing in this Agreement creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the Parties; and
- (b) no Party has the authority to bind any other Party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other Party or to pledge any other Party's credit.

**13.14 No fetter**

Nothing in this Agreement shall be construed as requiring the Council to do anything that would cause the Council to breach any of the Council's or the Committee's obligations at law and without limitation, nothing in this Agreement shall be construed as limiting or fettering in any way the discretion of the Council in exercising any of the Council's or the Committee's statutory functions, powers, authorities or duties.

**13.15 Explanatory note**

The Parties agree that the Explanatory Note must not be used to assist in construing this Agreement.

**13.16 Expenses**

- (a) The Developers must pay their own and the Council's reasonable legal costs and disbursements in connection with the negotiation, preparation and execution of this Agreement.
- (b) The Developers must pay for all reasonable costs and expenses associated with the giving of public notice of this Agreement and the Explanatory Note in accordance with the Regulation.

**13.17 Notices**

- (a) Any notice, demand, consent, approval, request or other communication (**Notice**) to be given under this Agreement must be in writing and must be given to the recipient at its Address for Service by being:
  - (i) hand delivered; or

- (ii) sent by facsimile transmission; or
  - (iii) sent by prepaid ordinary mail within Australia.
- (b) A Notice is given if:
  - (i) hand delivered, on the date of delivery;
  - (ii) sent by facsimile transmission during any Business Day, on the date that the sending Party's facsimile machine records that the facsimile has been successfully transmitted; or
  - (iii) sent by prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting.
- (c) If a Party gives the other Party 10 Business Days' notice of a change of its postal address, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address.
- (d) If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a Business Day, or if on a Business Day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.
- (e) The Developer appoints the Developer's Representative as its agent, for the sole purpose of giving and receiving notices under this Agreement, in accordance with the instructions of the Developer. However, any notices or communications from the Developer override those from the Developer's Representative if they are inconsistent.

**Executed** as an Agreement

**Executed as an agreement** on behalf )  
of Northern Beaches Council by its )  
General Manager pursuant to section )  
683 of the *Local Government Act 1993* )  
in the presence of:

.....  
Signature of witness

.....  
Signature of General Manager

.....  
(Print) Full Name

.....  
(Print) Full Name

**Executed as an agreement** under power of )  
attorney for NSW by Frasers Property AHL )  
Limited by its Attorneys: )

.....  
Signature of Attorney

.....  
Signature of witness

.....  
(Print) Full Name

.....  
(Print) Full Name

Pursuant to Power of Attorney registered  
[insert] and we declare that we have no  
notice of the revocation of the said Power of  
Attorney

## SCHEDULE 1

**Table 1 – Requirements under section 7.4 of the Act (clause 3)**

The Parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the Agreement complying with the Act.

REQUIREMENT UNDER THE ACT	THIS AGREEMENT
<b>Planning instrument and/or development application</b> – (section 7.4(1)) The Developer has: <ul style="list-style-type: none"> <li>(a) sought a change to an environmental planning instrument.</li> <li>(b) made, or proposes to make, a Development Application.</li> <li>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Yes</li> <li>(b) No</li> <li>(c) Yes</li> </ul>
<b>Description of land to which this Agreement applies</b> – (section 7.4(3)(a))	The whole of the Land
<b>Description of change to the environmental planning instrument to which this Agreement applies and/or the development to which this Agreement applies</b> – (section 7.4(3)(b))	Planning Proposal to create Central Local Park
<b>The nature and extent, timing and manner of delivery of contribution required by this Agreement</b> – (section 7.4(3)(c))	See Schedule 4 and 5
<b>Applicability of sections 7.11 and 7.12 of the Act</b> – (section 7.4(3)(d))	The application of section 7.11 and 7.12 of the Act are not excluded in respect of this Agreement.
<b>Applicability of section 7.24 of the Act</b> – (section 7.4(3)(d))	The application of section 7.24 of the Act is not excluded in respect of this Agreement.
<b>Consideration of benefits under this Agreement if section 7.11 applies</b> – (section 7.4(5))	Developer Contributions under this Agreement are not to be taken into consideration.
<b>Mechanism for Dispute Resolution</b> – (section 7.4(3)(f))	See clause 8
<b>Enforcement of this Agreement</b> – (section 7.4(3)(g))	See clause 6
<b>No obligation to grant consent or exercise</b>	See clause 13.14

<b>functions</b> – (section 7.4(9))	
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**Table 2 – Other matters**

<b>REQUIREMENT UNDER THE ACT OR REGULATION</b>	<b>THIS AGREEMENT</b>
<b>Registration of the Agreement</b> – (section 7.6 of the Act)	Yes (see clause 6)
<b>Whether the Agreement specifies that certain requirements of the agreement must be complied with before a Construction Certificate is issued</b> – (clause 25E(2)(g) of the Regulation)	No
<b>Whether the Agreement specifies that certain requirements of the agreement must be complied with before an Occupation Certificate is issued</b> – (clause 25E(2)(g) of the Regulation)	No
<b>Whether the Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued</b> – (clause 25E(2)(g) of the Regulation)	Yes



**SCHEDULE 2**

**Address for Service (clause 2.1)**

**COUNCIL**

**NORTHERN BEACHES COUNCIL (ABN 57 284 295 198)**

**Contact:** Chief Executive Officer

**Address:** 725 Pittwater Rd, Dee Why, New South Wales, 2099

**Facsimile No:** (02) 9970 1200

**Council Representative:**

**DEVELOPER**

**FRASERS PROPERTY AHL LIMITED (ABN 12 008 443 696)**

**Contact:** Company Secretary

**Address:** 1 Homebush Bay Drive,  
Building C, Level 3, Rhodes, New South Wales, 2138

**Facsimile No:** 02 9767 2900

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### SCHEDULE 3

Land (clause 2.1)

Column 1	Column 2	Column 3	
Item	Address	Lot Number	Deposited Plan
1	9 Fern Creek Road	5	736961
2	11 Fern Creek Road	11	1092788
3	12 Fern Creek Road	12	1092788
4	13 Fern Creek Road	13	1092788

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26876253\_7(MYH)

#### SCHEDULE 4

##### Developer Contributions (clause 5)

#### 1. Contributions

The Developer agrees to provide the Developer Contributions in accordance with this Schedule in the manner set out in the table below:

	Column 1	Column 2
Item	Contributions	Delivery Event and Timing
1	<b>Fern Creek Road Works</b>	Construction of an extension of Fern Creek Road, including new on-street parking, street trees and footpath (but excluding parking bays on the reserve side) and dedication of land to the Council by the Developer at no cost to the Council in accordance with clause 2 of this Schedule 4 prior to the issue of any Subdivision Certificate for residential development of the Developer Land.
2	<b>East-West Road Works</b>	Construction of a new east-west road connecting Fern Creek Road with the eastern half of Sector 9, including new on-street parking, street trees and footpath (but excluding parking bays on the reserve side) and dedication of land to the Council by the Developer at no cost to the Council in accordance with clause 3 of this Schedule 4 prior to the issue of any Subdivision Certificate for residential development of the Developer Land.
3	<b>Stormwater Infrastructure Embellishment Works – Developer</b>	Construction of the section of stormwater infrastructure that is required to be located within the Fern Creek Road Works at no cost to the Council in accordance with clause 4 of this Schedule 4 prior to the issue of any Subdivision Certificate for residential development of the Developer Land.
4	<b>Monetary contribution to undergrounding power lines</b>	Contribution of 50% of the total cost to Council of undergrounding the high voltage power lines that run along the current boundary at 9 and 12 Fern Creek Road to be undertaken prior to the issue of any Subdivision Certificate for residential development of the Developer Land.

#### 2. Fern Creek Road Works

The Developer must (at its cost):

- (a) carry out the Fern Creek Road Works in a good and workmanlike manner and otherwise in accordance with the provisions of this Agreement and generally in

accordance with the locations shown on the Plan by the time specified in column 2 of the table in clause 1 of this Schedule 4. The works should comply with the requirements of a 'Local Street' under the Warriewood Valley Roads Masterplan and the Warriewood Valley Landscape Masterplan; and

- (b) dedicate and transfer to the Council the land shown on the Plan as being set aside for the extension of Fern Creek Road.

**3. East-West Road Works**

The Developer must (at its cost):

- (a) carry out the East-West Road Works in a good and workmanlike manner and otherwise in accordance with the provisions of this Agreement and generally in accordance with the locations shown in the Plan by the time specified in column 2 of the table in clause 1 of this Schedule 4. The works should comply with the requirements of a 'Local Street' under the Warriewood Valley Roads Masterplan and the Warriewood Valley Landscape Masterplan; and
- (b) dedicate and transfer to the Council the land shown in the Plan as being set aside for the East-West Road.

**4. Stormwater Infrastructure Embellishment Works – Developer**

- (a) The Developer must (at its cost) carry out the Stormwater Infrastructure Embellishment Works – Developer in a good and workmanlike manner and otherwise in accordance with the provisions of this Agreement and generally in accordance with the location shown on the Plan by the time specified in column 2 of the table in clause 1 of this Schedule 4.

**5. Undergrounding power lines**

- (a) The Developer must provide the Council with a 50% contribution toward the total cost of undergrounding the high voltage power lines that run along the current boundary at 9 and 12 Fern Creek Road. The Developer's contribution must be paid within 5 business days of a receipt of a valid tax invoice from Council .

**SCHEDULE 5**

**Council Contributions (clause 5)**

**1. Contributions**

The Council agrees to provide the contributions in accordance with this Schedule and in the manner set out in the table below:

	Column 1	Column 2
Item	Contribution	Delivery Event and Timing
1	Stormwater Infrastructure Embellishment Works – Council	Construction of the section of stormwater infrastructure that is between the Fern Creek Road Works (as constructed by the Developer) and Fern Creek in accordance with clause 2 of this Schedule 5 prior to the issue of any Subdivision Certificate for residential development of the Developer Land.
2	Undergrounding power lines	Completion of works to underground the high voltage power lines that run along the current boundary at 9 and 12 Fern Creek Road prior to the issue of any Subdivision Certificate for residential development of the Developer Land.

**2. Stormwater Infrastructure Embellishment Works – Council**

- (a) The Council must (at its cost) complete the Stormwater Infrastructure Embellishment Works – Council in a good and workmanlike manner and otherwise in accordance with the provisions of this Agreement and generally in accordance with the location and details shown on the Plan by the time specified in column 2 of the table in clause 1 of this Schedule 5.

**3. Undergrounding power lines**

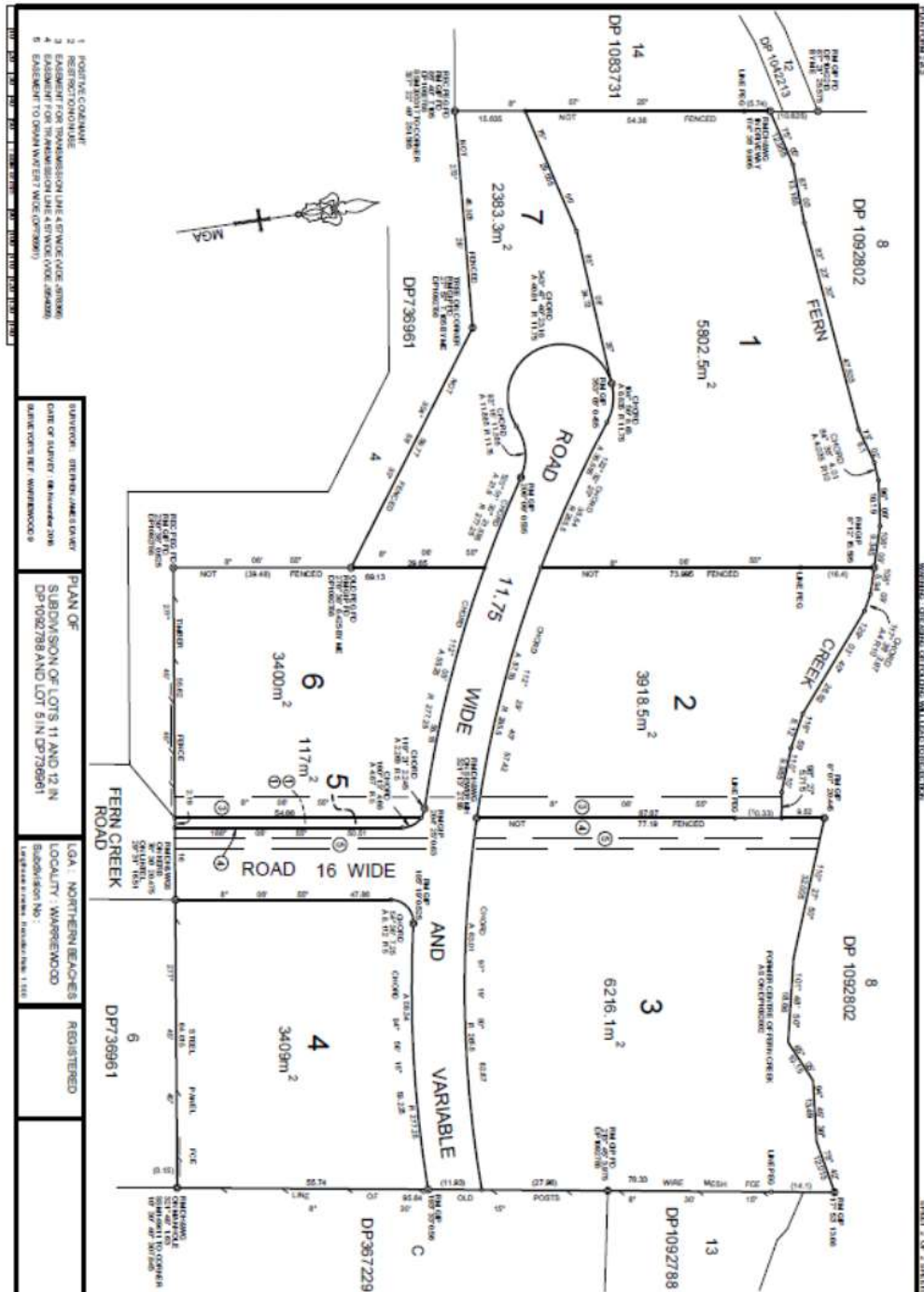
- (a) The Council must complete works to underground the high voltage power lines that run along the current boundary at 9 and 12 Fern Creek Road prior to the issue of any Subdivision Certificate for residential development of the Developer Land.



SCHEDULE 6

Plan showing the location and details of the relevant Contributions

Exempt Development Subdivision Plan



[illegible]

**SCHEDULE 8****Encumbrances****1. Lot 11 DP 1092788****1.1 1 notification**

As at the date of this Agreement, the title search for the above property indicates 1 notification in Schedule 2, being:

- (a) Reservations and conditions in the Crown Grant(s)

**2. Lot 12 DP 1092788****2.1 2 notifications**

As at the date of this Agreement, the title search for the above property indicates 2 notifications in Schedule 2, being:

- (a) Reservations and conditions in the Crown Grant(s)
- (b) J978366 Easement for transmission line 4.75 metres wide affecting the parts shown so burdened in the title diagram.

**Lot 13 DP 1092788****2.2 1 notification**

As at the date of this Agreement, the title search for the above property indicates 1 notification in Schedule 2, being:

- (a) Reservations and conditions in the Crown Grant(s)





GPO Box 1104, Sydney, NSW 2001  
ABN: 22 130 908 824

Mr Ray Brownlee  
Chief Executive Officer  
Northern Beaches Council  
Dee Why  
NSW 2099

30 April 2019

Dear Mr Brownlee

### **Probity Report (Updated) – Assessment of Draft Voluntary Planning Agreement (VPA 2018/001)**

Procure Group Pty Ltd (**Procure**) was engaged on 30 July 2018 by Northern Beaches Council (**Council**) to provide probity oversight and advice on the assessment of a draft voluntary planning agreement (**VPA**) submitted by GLN Planning on behalf of Council and Frasers Property AHL Limited (**Frasers**) for 9, 11, 12 and 13 Fern Creek Road Warriewood. The draft VPA arises from a land swap agreed by Council in March 2016 with Frasers which provided Council with its preferred open space layout for the location and provided for the development of Fraser's landholdings.

Council has a conflict of roles (which has been acknowledged) because it is the owner of property subject to the draft VPA and at the same time is responsible for the review of the draft VPA to ensure that it meets Council's planning requirements.

The assessment of the draft VPA was completed and a report prepared for the meeting of the elected Councillors held on 26 February 2019. The report to the Councillors provided an outline of the VPA assessment process and recommended that the VPA proceed to public exhibition.

Procure provided a Probity Report on 30 January 2019 which was included in the material presented to the Council meeting held on 26 February 2019 and publicly exhibited from 1 March to 31 March 2019. Council has provided Procure with copies of the submissions received during the public exhibition period and a copy of the draft Council report.

The result of the public exhibition will be reported to Council at its meeting on 28 May 2019.

### **Statement of Responsibility**

This probity report has been prepared to assist Council in its decision making regarding the VPA. Procure has compiled this report based on:

- (a) Council documentation it has been given and which it has reviewed; and
- (b) Discussions with relevant Council officers.

The conclusion of this report is based upon the work performed as documented in it. While Procure has identified probity risks and considered the controls, environment and action taken by Council to



address those risks, probity issues may nevertheless have arisen that have not been identified. While Procure may provide input into processes followed, Council retains responsibility for the probity of its personnel and processes. The report cannot be relied upon by any other party or for any other purpose.

## Background

The draft VPA in its introduction outlines the purpose of the VPA as follows:

- A. *Council owns Lot 5 in Deposited Plan 736961 (Council Land) and the Developer owns Lots 11, 12 and 13 in Deposited Plan 1092788 (Developer Land).*
- B. *Subject to the amendment of the Pittwater LEP, Council and the Developer have agreed to swap parts of Council Land and Developer Land (the Land Swap) to enable the Council to extend a proposed public park and to enable residential development on the land transferred to the Developer following the Land Swap.*
- C. *The Land Swap is the subject of a separate agreement between the Parties and is conditional upon the Parties entering into this Agreement.*
- D. *The Developer has made an offer to the Council to enter into this Agreement to ensure the provision at its cost of public benefits in connection with a development application proposed for the Developer Land, being the construction of an extension of Fern Creek Road and the construction of new east-west road connecting Fern Creek Road with the eastern half of Sector 9 of the Release Area, the provision of associated stormwater infrastructure and a 50% contribution towards the cost of undergrounding high voltage power lines that run along the current boundary at 9 and 12 Fern Creek Road.*

The draft VPA has been assessed by Council in accordance with Section 7.4 of the Environmental Planning and Assessment Act and Regulations. It was also assessed against the Warringah Council Policy Voluntary Planning Agreements Policy No PL 600 VPA in lieu of a Northern Beaches Council Policy on Voluntary Planning Agreements.

The assessment of the draft VPA was conducted by Council planning staff with assistance from the Development Infrastructure Working Group (**Working Group**). Their assessment was reported to the Development Infrastructure Committee. Council sought independent legal advice from Matthews Folbigg in relation to the draft VPA.

The review of the draft VPA was completed and a report prepared by Council officers for consideration by the elected Councillors at a public Council meeting held on 26 February 2019.

The Council resolved to place all material related to the draft VPA on public exhibition from 1 March to 31 March 2019. The responses received to the public exhibition have been assessed and a final report prepared for consideration by the elected Councillors at the public Council meeting on 28 May 2019.

## Scope

In the letter of engagement Procure was required to:

- + *Oversee and where required provide probity advice and services in regards the negotiation, assessment and approval/refusal of the VPA.*
- + *Attend meetings between Council staff assessing the draft VPA and the applicant (including Council's Property Team) where it may be deemed that Council has a potential conflict of interest. In the event that attendance is not possible, review meeting notes of such meetings that have been held.*
- + *Review any minutes of internal meetings held as part of the assessment of the draft VPA.*
- + *At the conclusion of the VPA negotiations/assessment, undertake a probity audit of the process and prepare a report in regard to the management of the probity matters. It is anticipated that this probity report will be sent to Council when the draft VPA is reported for consideration.*

## Work Performed

In undertaking this review, Procure has completed the following tasks:

- + Reviewed the following documents:
  - + Draft VPA document and related explanatory documents as provided to Council by GLN Planning on behalf of the Council Property Team and Frasers;
  - + Minutes of the meetings of the Development Infrastructure Committee held in August, September and October 2018;
  - + Correspondence between the Council officers conducting the review and the representative of GLN Planning in relation to matters of concern and questions related to the content of the draft VPA;
  - + Notes of the meeting between Council officers, the Council Property Team (as land owners) and the landowner representatives held on 10 December 2018;
  - + The draft report to be considered by the meeting of elected Councillors;
- + Noted that Council officers have provided signed conflict of interest declarations from the Strategic and Place Planning staff with responsibility for the review of the VPA and preparation of the report to Councillors. No matters were declared which prevented any Council officer participating in the review process;
- + Noted from a review of the minutes of the meeting of the Development Infrastructure Committee held on 29 October 2018, that the Committee endorsed the submission of the report on the assessment of the draft VPA to a future meeting of elected Councillors. Further noted that the Executive Manager, Property was not in attendance at the meeting;

- + Noted that on 5 November 2018, the Council staff completing the assessment of the draft VPA requested an external legal review of the draft VPA. The General Counsel of Council was responsible for arranging the legal review. Prior to the review being undertaken by Matthews Folbigg, Council's legal advisers, Matthews Folbigg were required to establish internal probity arrangements to ensure that the review of the draft VPA was undertaken by staff who had not previously provided advice to the Property Team in relation to the land swap;
- + Matthews Folbigg provided a letter on 14 November 2018 outlining their probity arrangements to ensure that the review of the draft VPA was conducted by independent staff in their office. Procure reviewed the letter and advised Council on 15 November 2018 that the arrangements outlined in the letter were satisfactory;
- + Participated in the meeting held on 10 December 2018 where matters identified in the legal review were discussed between representatives of the Council Planning review team, the Property team and landowner representatives and the General Counsel;
- + Noted the advice from Matthews Folbigg to Council on 8 January 2019 that the draft VPA had been amended in accordance with the matters agreed at the meeting held on 10 December 2018;
- + Noted the advice received by Council (email of 9 January 2019) that the Council Property team and Frasers agree to proceed on the basis of the draft VPA as amended in the advice from Matthews Folbigg on 8 January 2019;
- + The Manager, Property, Commercial and Tourist Assets confirmed to Procure on 25 January 2019 that that no members of the Property team had had any role in the review of the draft VPA and that Property team members have withdrawn from the Working Group meetings where the VPA was discussed. Nor have they been part of any other assessment of the VPA;
- + Reviewed the report and attachments prepared by Council officers for consideration by the elected Councillors at their meeting on 26 February 2019 and confirmed that it provided a detailed statement of the review process followed and the recommendation to publicly exhibit the draft VPA;
- + Further noted that the recommendations of the Council officers and the Development Infrastructure Committee were considered in open Council and include a recommendation for a further period of public exhibition. This provided for a fully transparent process.
- + Noted that the period of public exhibition was from 1 March to 31 March 2019 and that three responses were received and reviewed by Council officers;
- + Reviewed the report and attachments prepared by Council officers for consideration by the elected Councillors at their meeting on 28 May 2019 and confirmed that the report provided a detailed response to each of the matters raised in the three responses received; and
- + Confirmed with Council officers that the Property Team members did not have any role in the consideration of the responses to the public exhibition of the draft VPA.

Northern Beaches Council

**Assessment of draft VPA****Probity Report (updated)**

## Conclusion

Based upon our work performed as detailed in this report, no issues of a probity nature have come to our attention that would lead us to conclude that the process followed by the Northern Beaches Council in the assessment and public exhibition of Voluntary Planning Agreement (VPA 2018/001) has not been conducted in a transparent and accountable manner with due regard to probity.

Please contact Vic Baueris of Procure should you have any questions in relation to this report.

Yours sincerely,



Simon Taylor

**Director**

**Procure Group Pty Ltd**

PLAN FORM 2 A-3

WARNINGS: CHECKING OR FOLLOWING WILL LEAD TO REJECTION

SHEET 1 OF 2 SHEETS



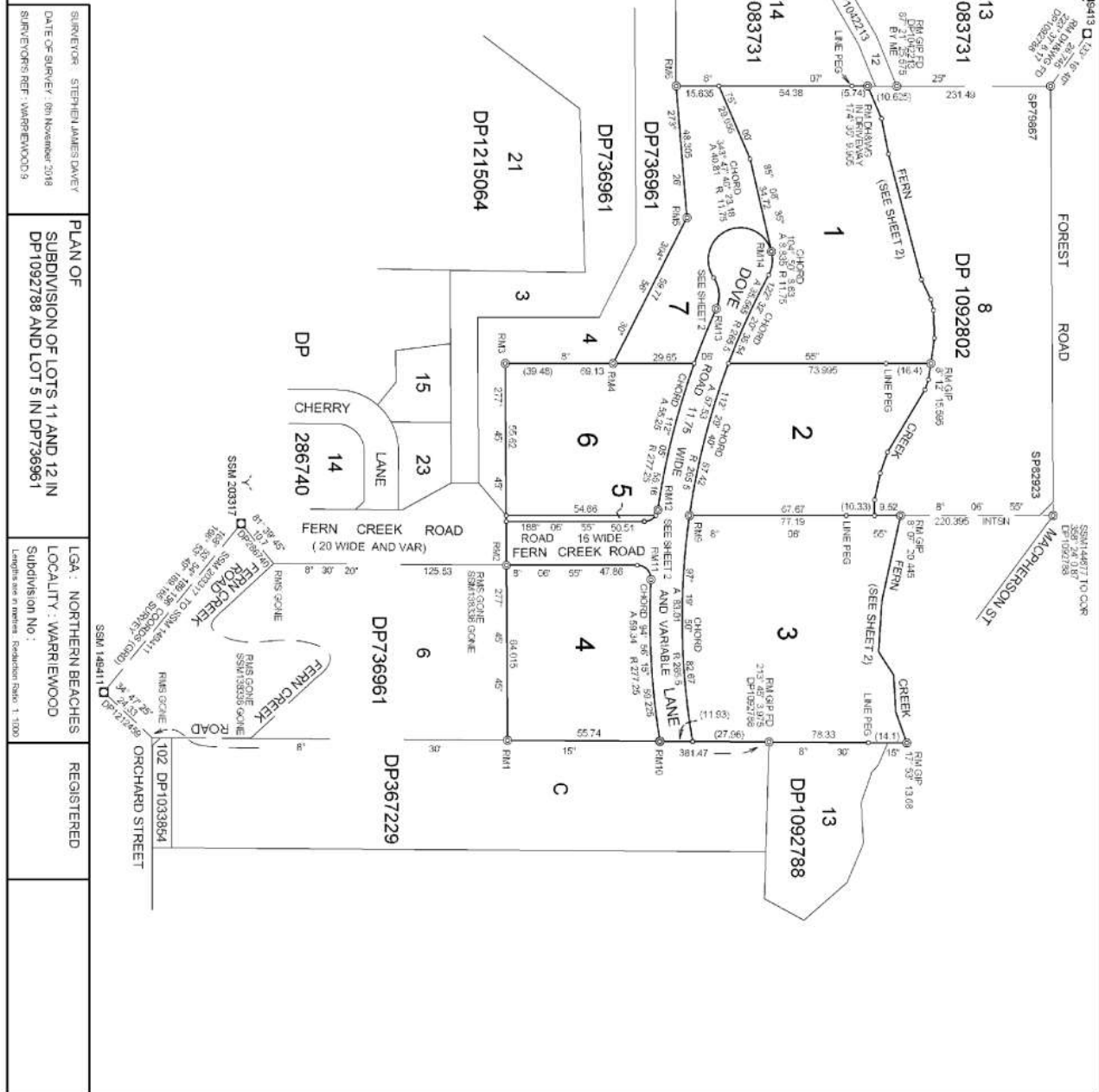
MARK	REFERENCE	ORIGIN	COMMENT
RM1	DHAWG 321° 48'	1.53	ON MAIN-HOLE
RM2	DHAWG 76° 30'	20.475	PLACED ON LINE
RM3	DHAWG 29° 31'	16.51	ON LINE
RM4	GIP 230° 38'	0.625	DP1092788 RE-REFERENCED
RM5	GIP 276° 38'	6.425	DP1007288 RE-REFERENCED
RM6	GIP 27° 57'	7.165	DP1007288
RM7	DHAWG 174° 35'	9.505	ON DRIVEWAY
RM8	GIP 87° 21'	25.575	DP1042213 RE-REFERENCED
RM9	DHAWG 321° 13'	27.88	ON SEWER NH
RM10	GIP 190° 33'	0.56	PLACED
RM11	GIP 185° 19'	0.525	PLACED
RM12	GIP 204° 25'	0.53	PLACED
RM13	GIP 206° 09'	0.535	PLACED
RM14	GIP 353° 03'	0.455	PLACED

JOIN	BEARING	DIST	BEARING	DIST
SSM 148411 TO SSM 203317	348° 59' 54"	1.89	157° 34' 58"	1.89
SSM 203317 TO SSM 148413	347° 59' 20"	540	540° 540'	540
SSM 148413 TO SSM 148411	103° 00' 10"	179	720° 103° 00' 08"	179
SSM 148411 TO SSM 148413	182° 13' 35"	674	396° 182° 13' 35"	674
SSM 148413 TO SSM 148411	188° 13' 29"	729	676° 188° 13' 27"	729

MARK	EAST	NORTH	ZONE	ORDER	CLASS
SSM 148411	341 243.156	6 270 984.127	56	2	B
SSM 148413	341 084.262	6 271 688.381	56	3	C
SSM 203317	341 206.737	6 271 688.726	56	4	D
SSM 148417	341 289.357	6 271 687.948	56	3	C

SOURCE: DATA COORDINATES ADJUSTED, STATE ON 1ST SEPTEMBER 2018  
CHAMBERED BEA, LEVEL AND SCALE FACTOR 0.98002

10 20 30 40 50 60 70 80 90 100 110 120 130 140









# Pittwater Waterway Strategy 2038 (Draft)





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## Message from the Mayor

The Pittwater waterway is an iconic and highly valued natural asset to the Northern Beaches community. Thank you for your input through the extensive community consultation undertaken and feedback on our Pittwater Waterway Review Discussion Paper. You wanted a sustainable approach to managing the waterway, balancing the competing pressures between protecting the marine biodiversity, delicate estuarine habitat, providing opportunities for recreation, access to the offshore community and contributing to the local economy.



Our draft Pittwater Waterway Strategy 2038 (the Strategy) sets out our strategic direction for sustainably managing the waterway for the next 20 years. Our vision is for the Pittwater waterway to, "continue to be a place of natural wonder and beauty. It will be a place that balances the majesty of nature with vibrant and diverse activity. A place for all to enjoy".

Importantly, we would like to respectfully acknowledge the traditional custodians of these lands and recognise that Pittwater has great significance to the traditional owners.

The strategy recognises the importance of sustainable economic growth while also identifying the need to protect, promote and celebrate our natural environment, address increasing demand pressures and enable greater opportunities for the access, use and enjoyment of the waterway.

We will be working with key state agencies, businesses and the community to deliver these outcomes to sustainably manage the Pittwater waterway for the next twenty years.



Michael Regan, Mayor

## Summary

The Pittwater waterway is iconic and one of the Northern Beaches' most significant natural assets. It fundamentally embodies the spirit and character of the Northern Beaches and makes the area such a beautiful place to live, work and visit.

The **Pittwater Waterway Strategy 2038** is our vision for a place that balances the majesty of nature with vibrant and diverse activity. It outlines our key future strategy directions regarding how we sustainably manage the Pittwater waterway.

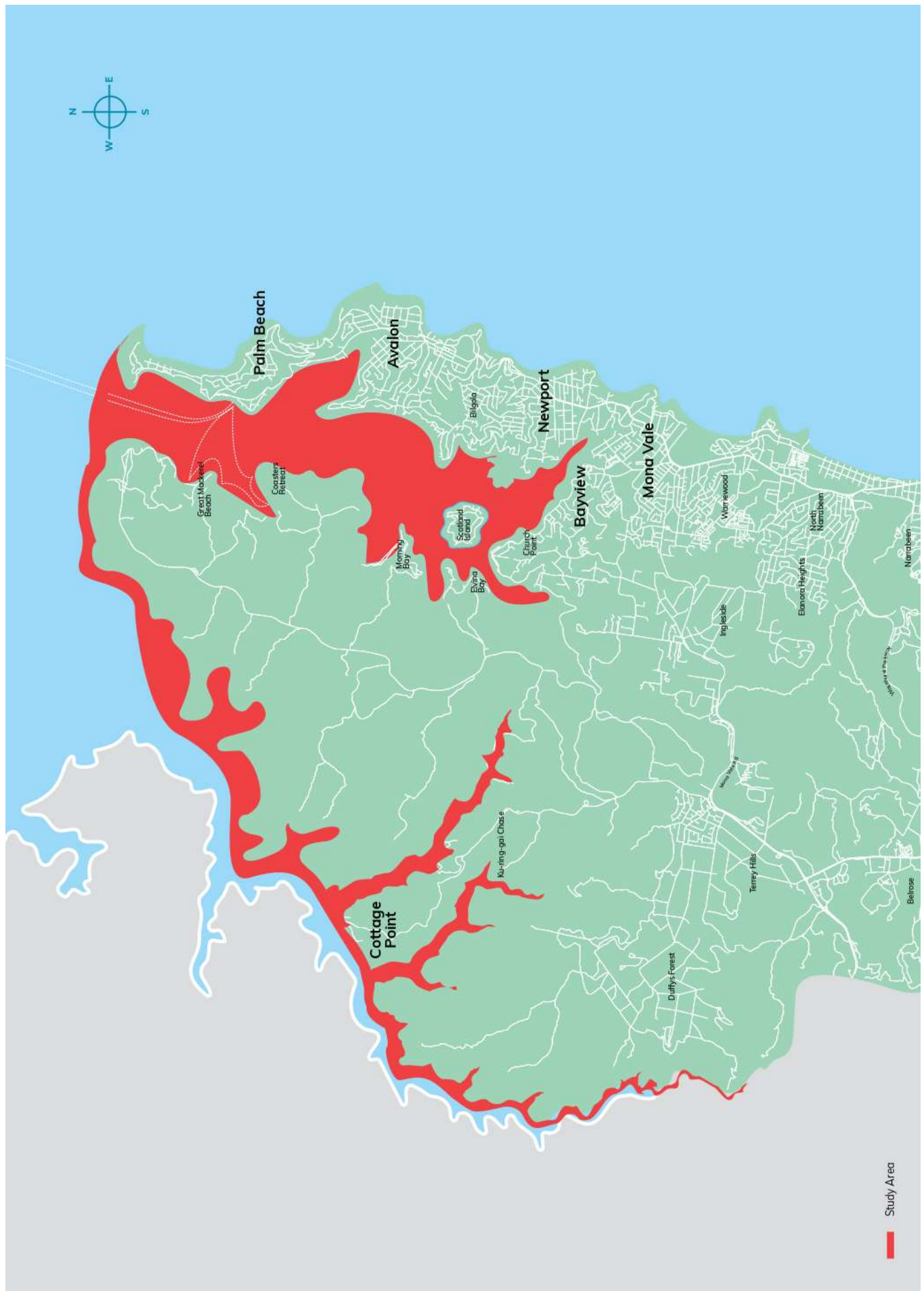
Our approach is to try to balance the array of diverse and competing pressures ranging from varied recreational use and the demand to increase boat storage, to valuing our delicate estuarine habitats and outstanding environmental setting.

The Strategy is a non-statutory guiding document structured on six themes, with each theme having key strategies and directions.





Theme	Our Objectives	
1	Economics of the waterway	<ul style="list-style-type: none"> <li>Sustainable economic growth balanced with protecting the significance and intrinsic value of the natural environment</li> </ul>
2	Natural Environment	<ul style="list-style-type: none"> <li>Protect, promote and celebrate the unique and valuable natural environment of Pittwater including its extensive ecological diversity and renowned scenic amenity.</li> </ul>
3	Natural Reserves and Recreation	<ul style="list-style-type: none"> <li>Manage foreshore reserves in line with community aspirations and changing waterway dynamics</li> </ul>
4	Development of the waterway	<ul style="list-style-type: none"> <li>Manage increasing demand in boating, including associated pressure on boat storage and facilities.</li> </ul>
5	Activating the waterway	<ul style="list-style-type: none"> <li>Provide a range of diverse opportunities to access, use and enjoy the waterway.</li> </ul>
6	Waterway regulation	<ul style="list-style-type: none"> <li>Effectively regulate and manage the Pittwater waterway sustainably and with transparency to meet the needs of the community and emerging demand pressures.</li> </ul>



## Our Plans

This Strategy provides a long-term vision (20 years) for sustainably managing the Pittwater waterway in response to your priorities.

The Strategy will be supported by our planning framework which provides a platform for achieving our community's vision for the Northern Beaches being – 'a safe, inclusive and connected community that lives in balance with our extraordinary coastal and bushland environment'.

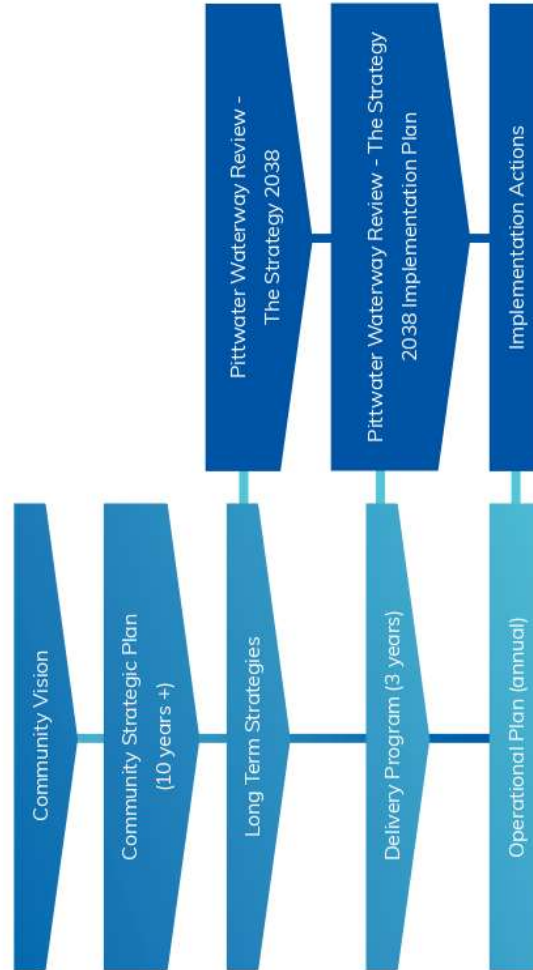


Figure 1: Community Strategic Plan and  
**Pittwater Waterway Review - Strategy 2038**

Figure 2: Strategy Timeline

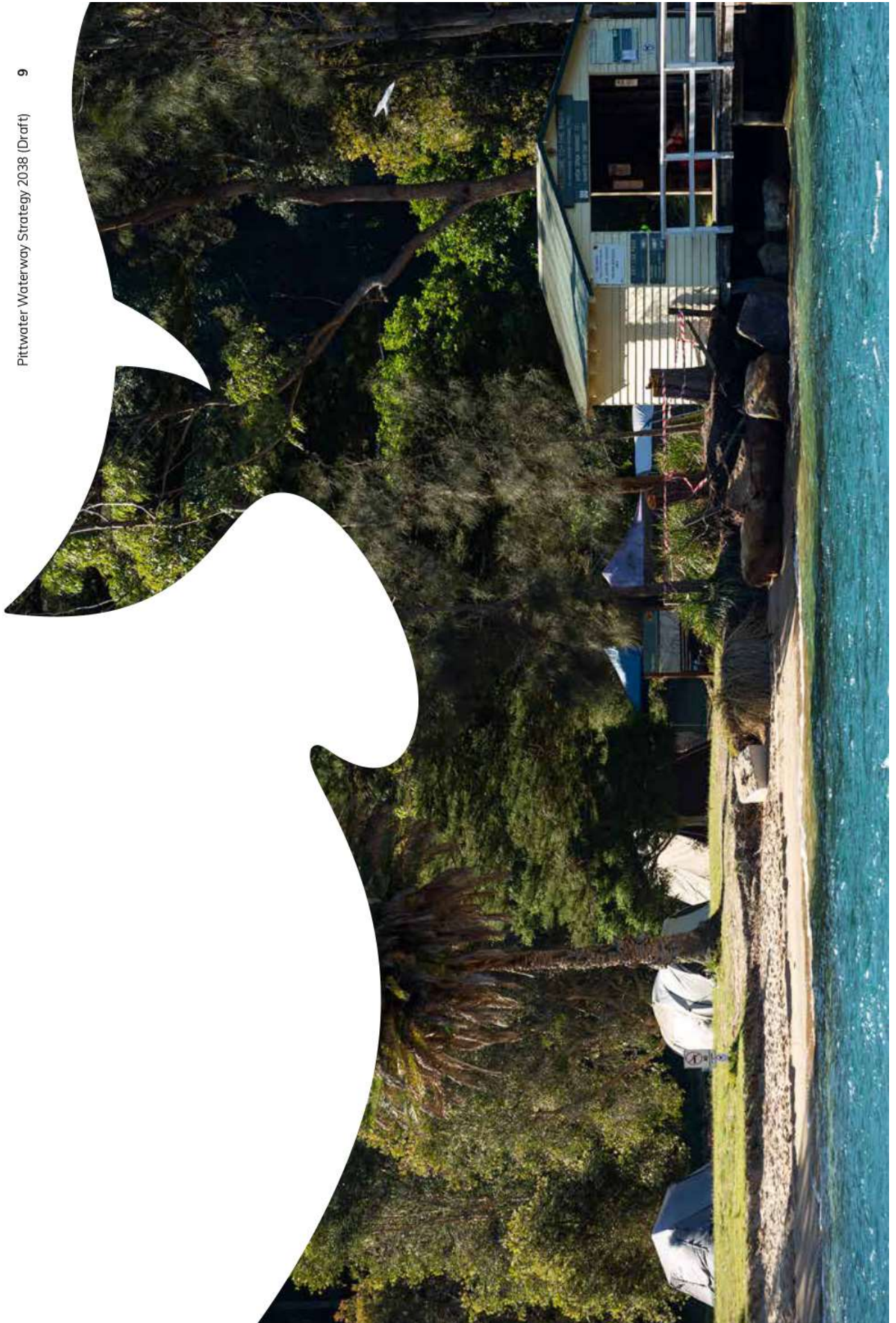
Pittwater Waterway Review commences - Initial community consultation	Pittwater Waterway Review - Discussion Paper	Community consultation and outcomes report to council	Pittwater Waterway Strategy (Draft)	Community Consultation	Pittwater Waterway Strategy to Council for adoption
Complete	Complete	Complete	Complete	Complete	May 2019

#### NSW Government Land Use Plans

This Strategy also complements the NSW Government's long-term land use strategies for Greater Sydney:

- North District Plan, Greater Sydney Commission (GSC), March 2018
- Greater Sydney Region Plan, A Metropolis of Three Cities Connecting People, GSC







## Pittwater Waterway Challenges

We face diverse and competing challenges on the Pittwater waterway



<sup>1</sup> NSW Maritime 2010

<sup>2</sup> HILPDA, 2009

<sup>3</sup> HILPDA, 2016

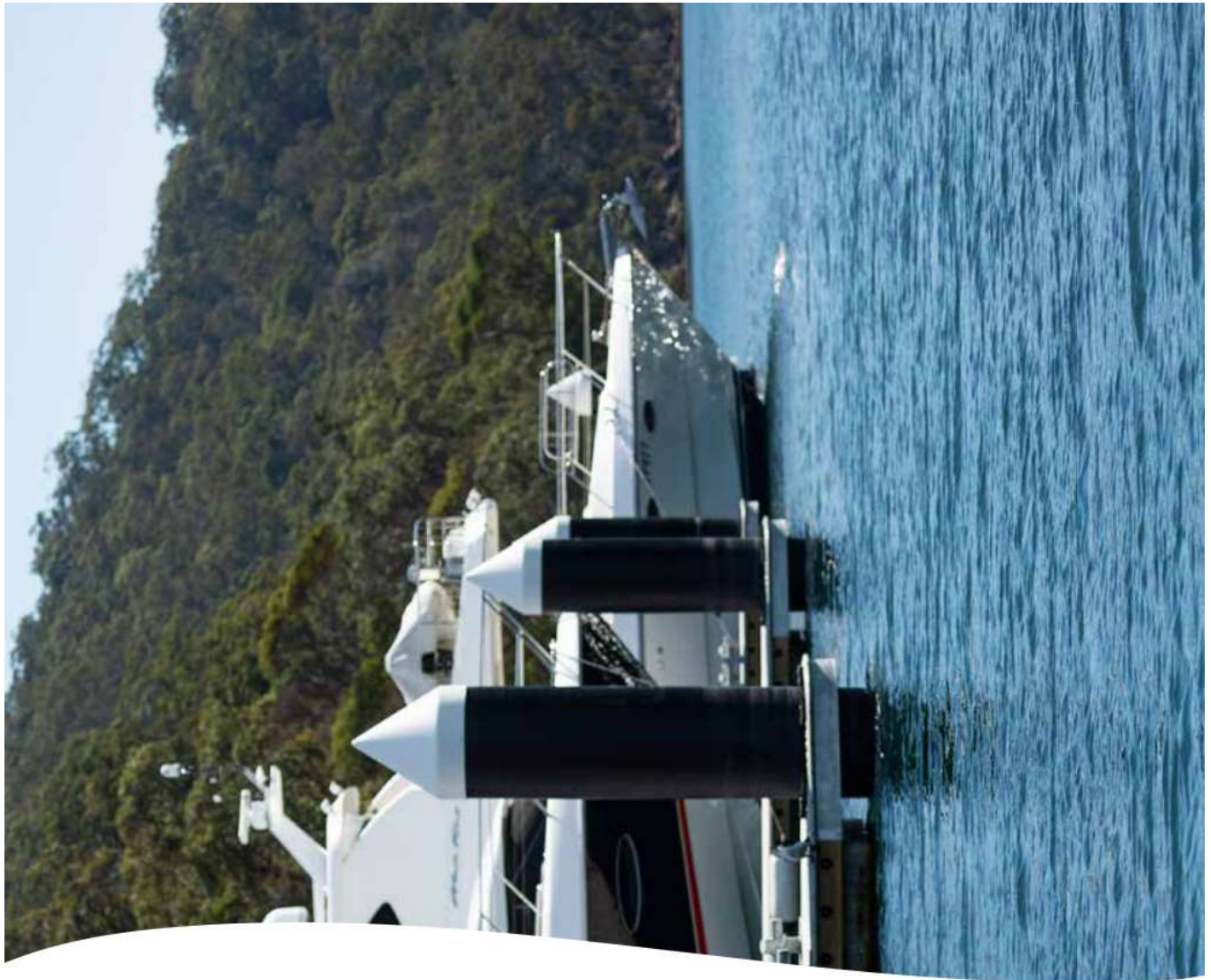
<sup>4</sup> Pittwater Council, 2015

<sup>5</sup> Pittwater Estuary – Mapping of Sea Level Rise Impacts, Cardno 2015

<sup>6</sup> BMT WBM Pty, 2010

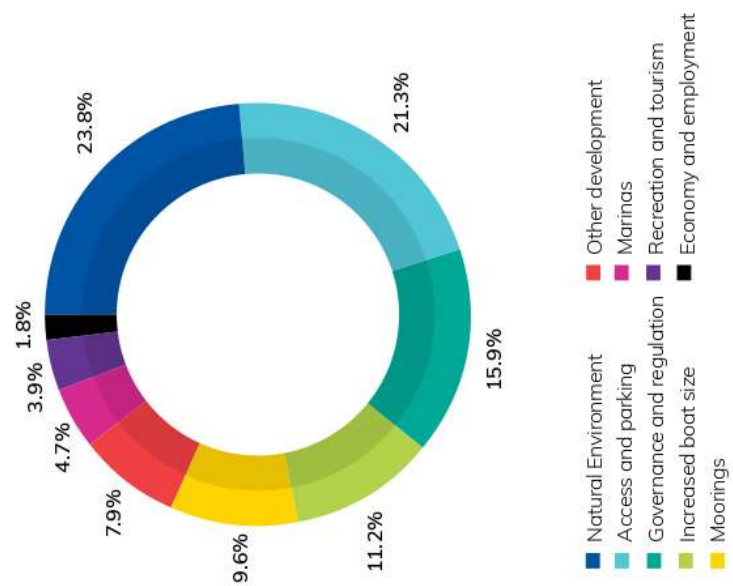
<sup>7</sup> Pittwater Waterway Review (PWR) Discussion Paper, Northern Beaches Council, 2016; Demers, et al., 2013; Maritime Management Centre, 2014

<sup>8</sup> Northern Beaches Area 2011 to 2016 Analysis, NSW Department of Planning, 2016 NSW Local Government Area Population and Household Projections and Implied Dwelling Requirements



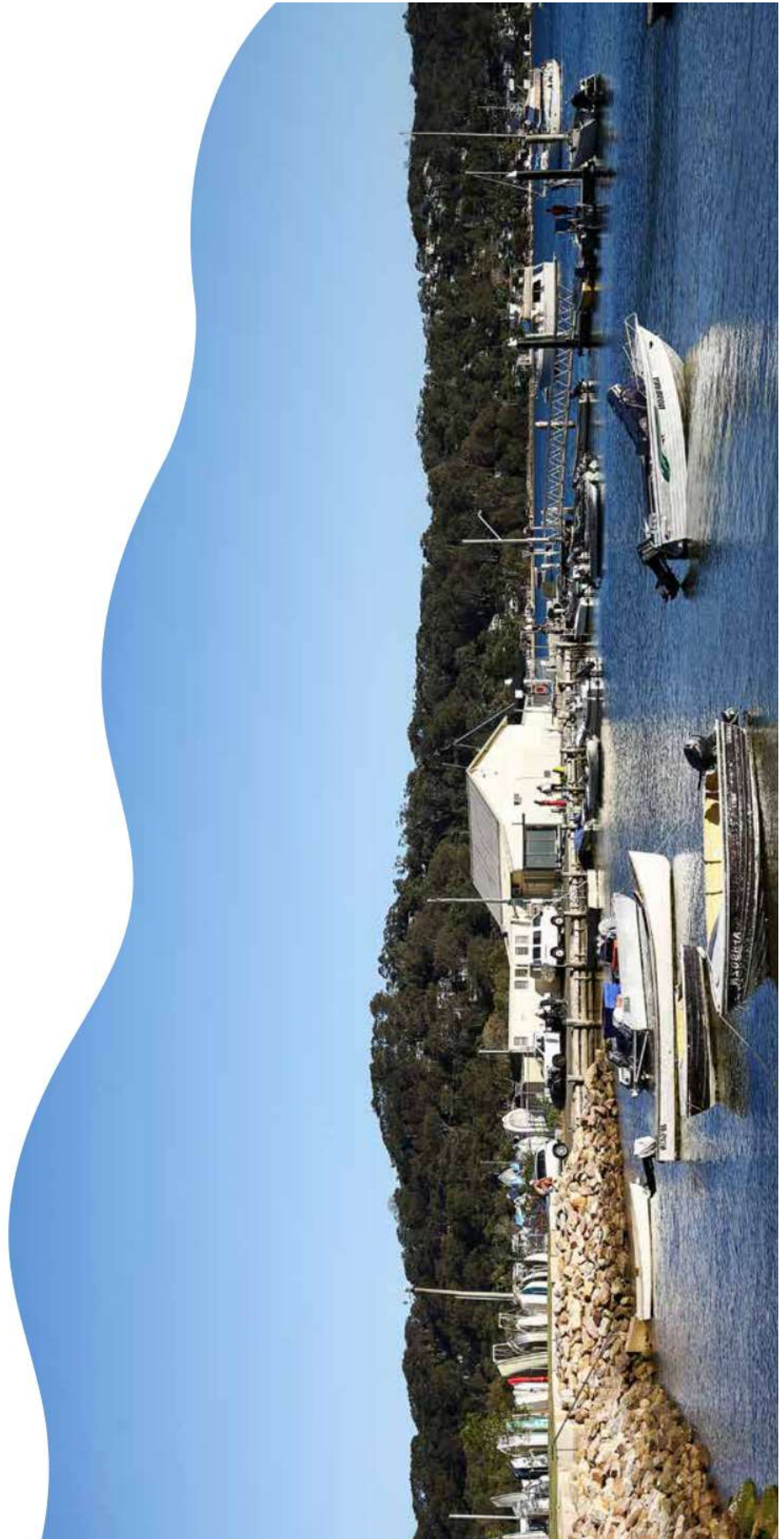
## Your single biggest challenge facing the waterway

As indicated by survey feedback during preliminary consultation, Question asked was "What was the single biggest challenge facing the waterway now and into the future?". Responses were grouped into 9 key areas





12 Pittwater Waterway Strategy 2038 (Draft)



## Number of moorings by area

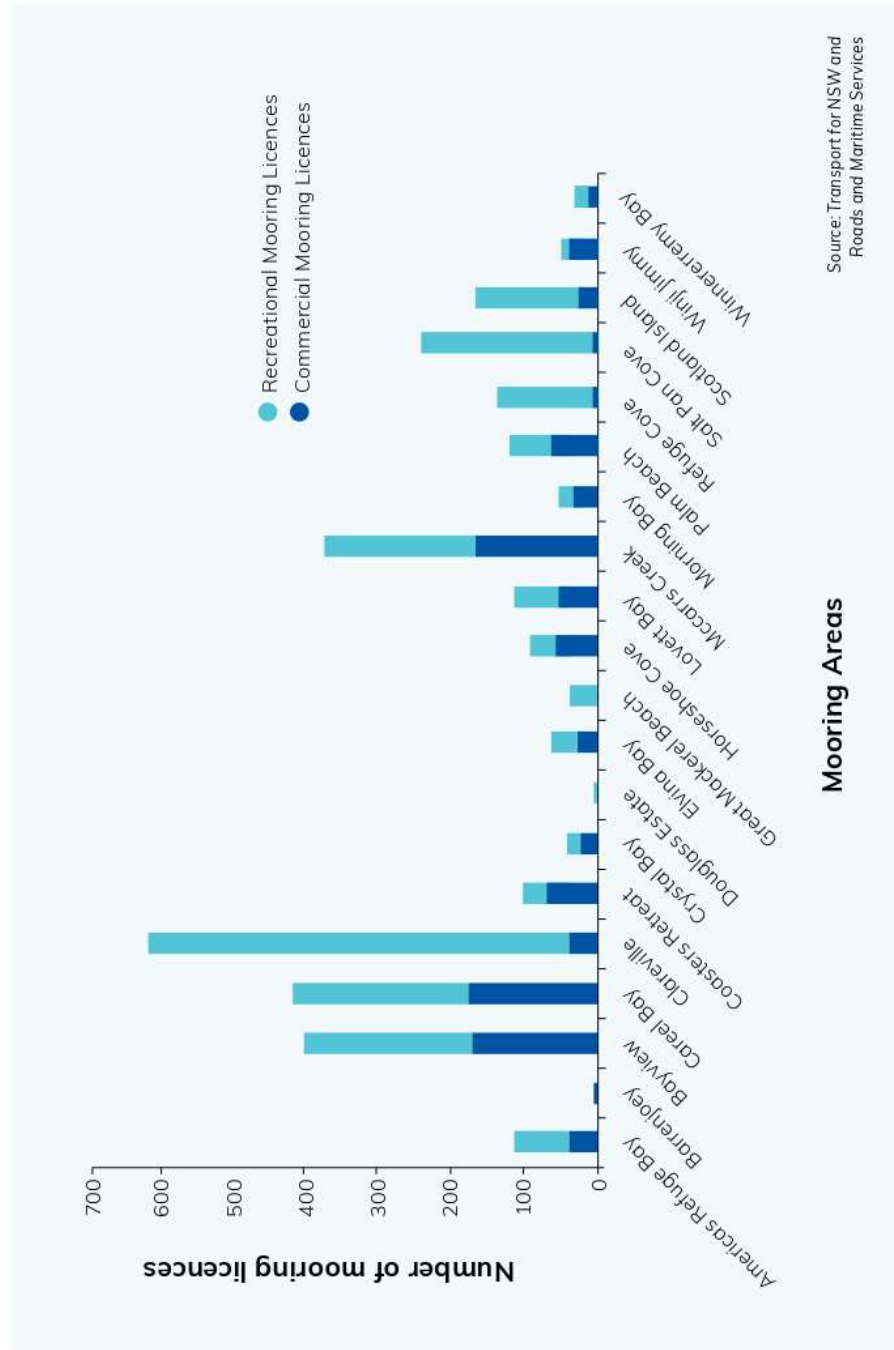


Figure 4: Mooring Licences

## Pittwater Waterway Vision

"A place of natural wonder and beauty. It will be a place that balances the majesty of nature with vibrant and diverse activity. A place for all to enjoy."



### The community developed this vision during consultation that included:

- Two online community surveys
- Mobile phone and Facebook campaign
- Pop-up stalls
- Interviews with key stakeholders
- Nine targeted workshops with key stakeholders
- Drop-in sessions



## Aspirations for the Pittwater Waterway

The community was asked to list their aspirations for the waterway.

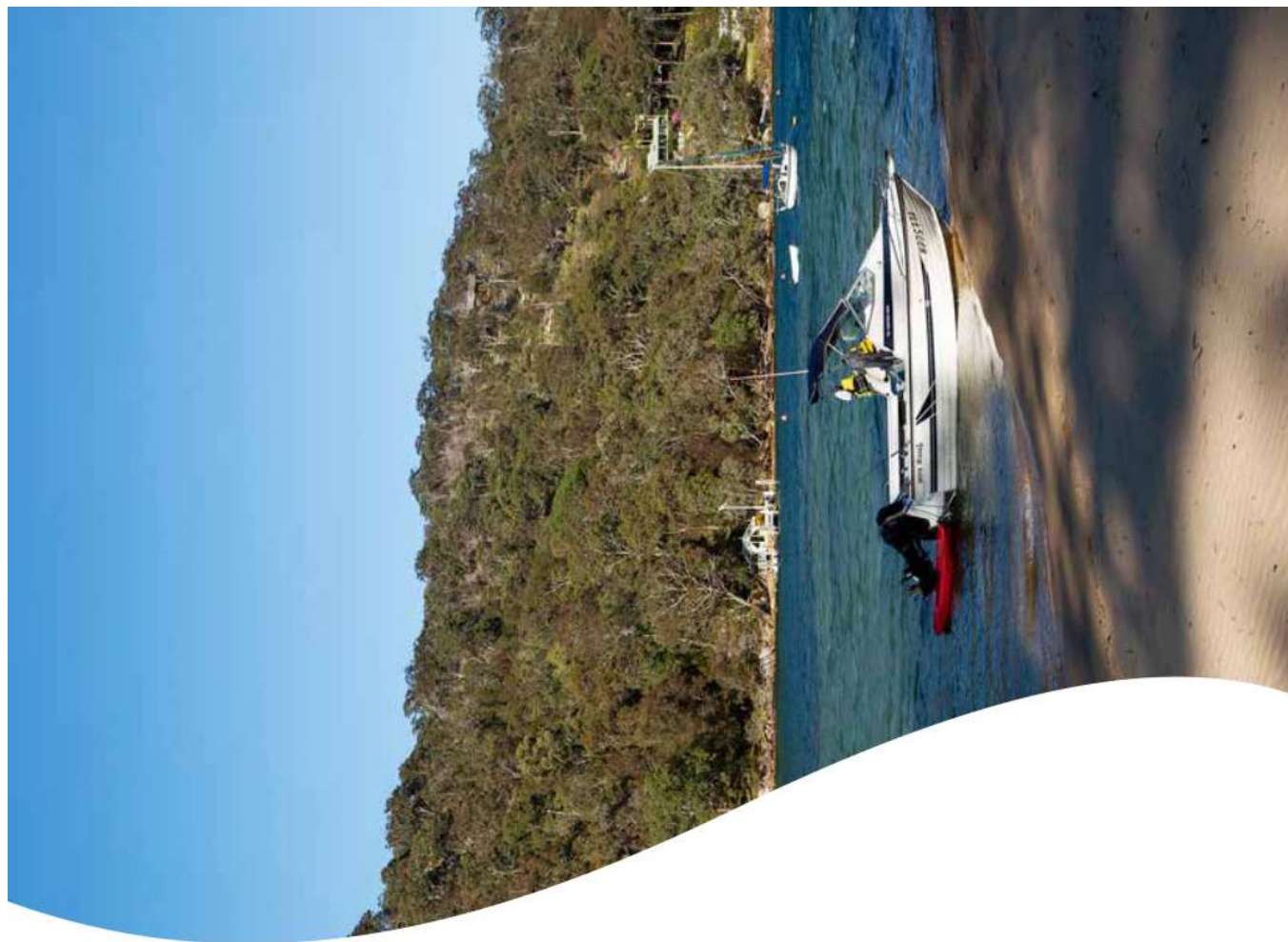
“ A clean, healthy waterway that maintains its natural beauty, wildlife and habitats and to ensure these unique features are protected and enhanced now and into the future. ”

“ Assurance that facilities are maintained and improved upon so this wide number of activities can continue and expand in variety. This includes boating, kayaking, paddle-boarding and swimming as well as a number of other activities. ”

“ A safe waterway that is accessible for all and caters for a wide variety of activities. ”

“ Allow and promote future development on and adjacent to the waterway to more adequately reflect and be appreciative of the waterway's natural splendour. ”

“ Ensure the responsible and reasonable use of the waterway now and into the future. ”



## What is the Pittwater Waterway Review?

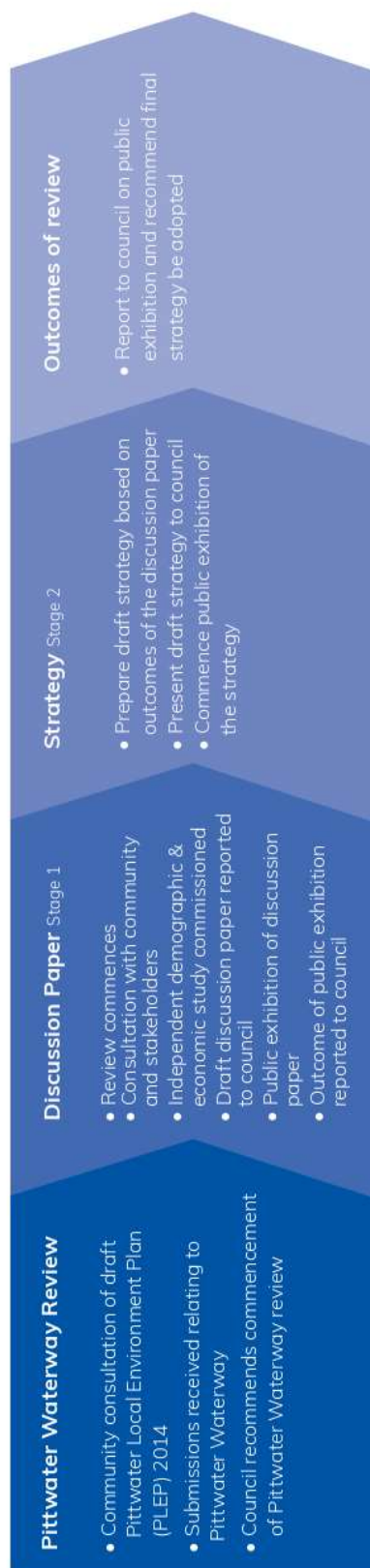
The Pittwater waterway is highly valued, locally and regionally, for its varied marine biodiversity, delicate estuarine habitats, unique environmental setting, recreation value, natural picturesque setting, contribution to the local economy and community and means of access for offshore communities. These diverse and competing pressures highlight the need to manage Pittwater sustainably now and into the future.

To achieve this, Council has undertaken a holistic review of the waterway to ensure it is sustainably managed. This Review has sought to identify and assess all issues impacting the waterway and through the focus on sustainability, develop and implement strategies to guide the management of the Pittwater waterway over the next 20 years.





## The Pittwater Waterway Review Process



<b>What the review is:</b> <ul style="list-style-type: none"> <li>Promoted by the community, written with the community and developed for the community.</li> <li>A strategic analysis of planning controls associated with the Pittwater waterway, including land and water based.</li> <li>A strategic document to guide the sustainable management of the Pitt water waterway over the next 20 years.</li> <li>A document that will make recommendations for zoning, zone objectives and development control.</li> <li>An evidence based strategic planning document that establishes a framework for future planning and decision making associated with the Pittwater waterway.</li> <li>A strategic tool to assist the decision making process and recommendation to state government for action.</li> </ul>	<b>What the review is not:</b> <ul style="list-style-type: none"> <li>NOT a coastal zone management plan or coastal management plan.</li> <li>NOT a document that can require specified state government actions.</li> <li>NOT a document that incorporates the coastal fringe, Middle Harbour, Narrabeen or Dee Why Lagoon.</li> <li>NOT a Plan of Management as mandated under the Crown Lands Act, 1989 or the Local Government Act 1997.</li> </ul>
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## The Purpose and progress of the Strategy

This strategy sets the strategic framework for the future management of the waterway and allocates specific directions to those responsible for implementing them. -



## Our conversation

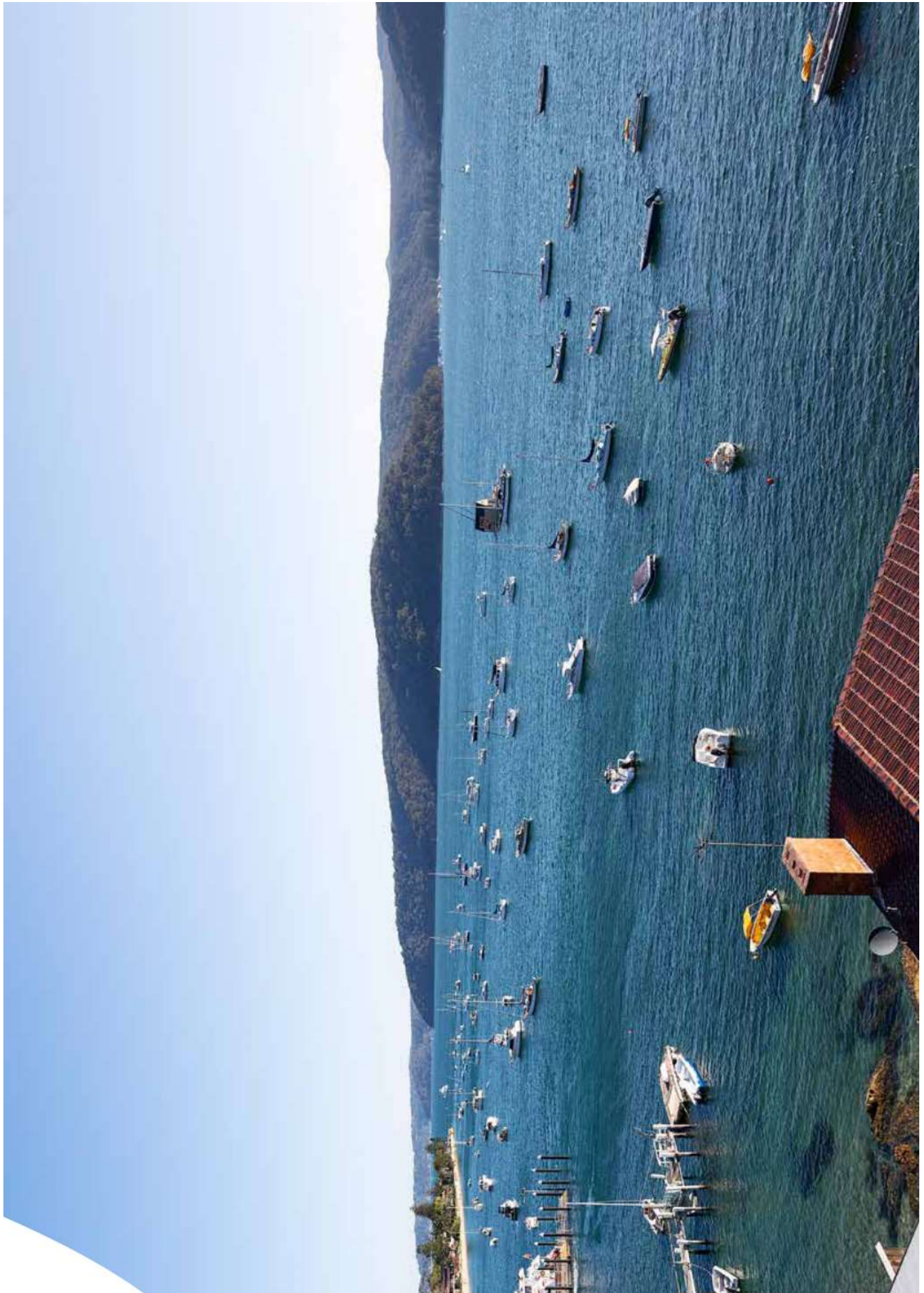
Phase 1 Initial Consultation	Phase 2 Public exhibition of Discussion Paper	Phase 3 Consultation with responsible internal stakeholders	Phase 4 Exhibition of draft PWR Strategy
<ul style="list-style-type: none"> <li>- Workshops with internal working group, reference groups, internal and external stakeholders               <ul style="list-style-type: none"> <li>- Online survey</li> </ul> </li> <li>- Advertising campaign               <ul style="list-style-type: none"> <li>- Pop-up stall</li> </ul> </li> <li>- Interviews with key stakeholders and service providers</li> <li>- Pittwater Waterway Review (PWR) Yoursay page</li> </ul>	<ul style="list-style-type: none"> <li>- Advertising campaign including public notices in Manly Daily and on social media</li> <li>- Targeted email drop and e-newsletter notification               <ul style="list-style-type: none"> <li>- Drop-in sessions</li> </ul> </li> <li>- Pop-up stalls</li> <li>- Updates on PWR Yoursay page</li> </ul>	<ul style="list-style-type: none"> <li>- One-to-one discussions with responsible internal stakeholders on the draft Pittwater Waterway strategy</li> </ul>	<ul style="list-style-type: none"> <li>- Advertising campaign including public notices in Manly Daily and on social media</li> <li>- Targeted email drop and e-newsletter notification               <ul style="list-style-type: none"> <li>- Drop-in sessions</li> </ul> </li> <li>- Pop-up stalls</li> <li>- Updates on PWR Yoursay page</li> </ul>



## Themes and strategy direction

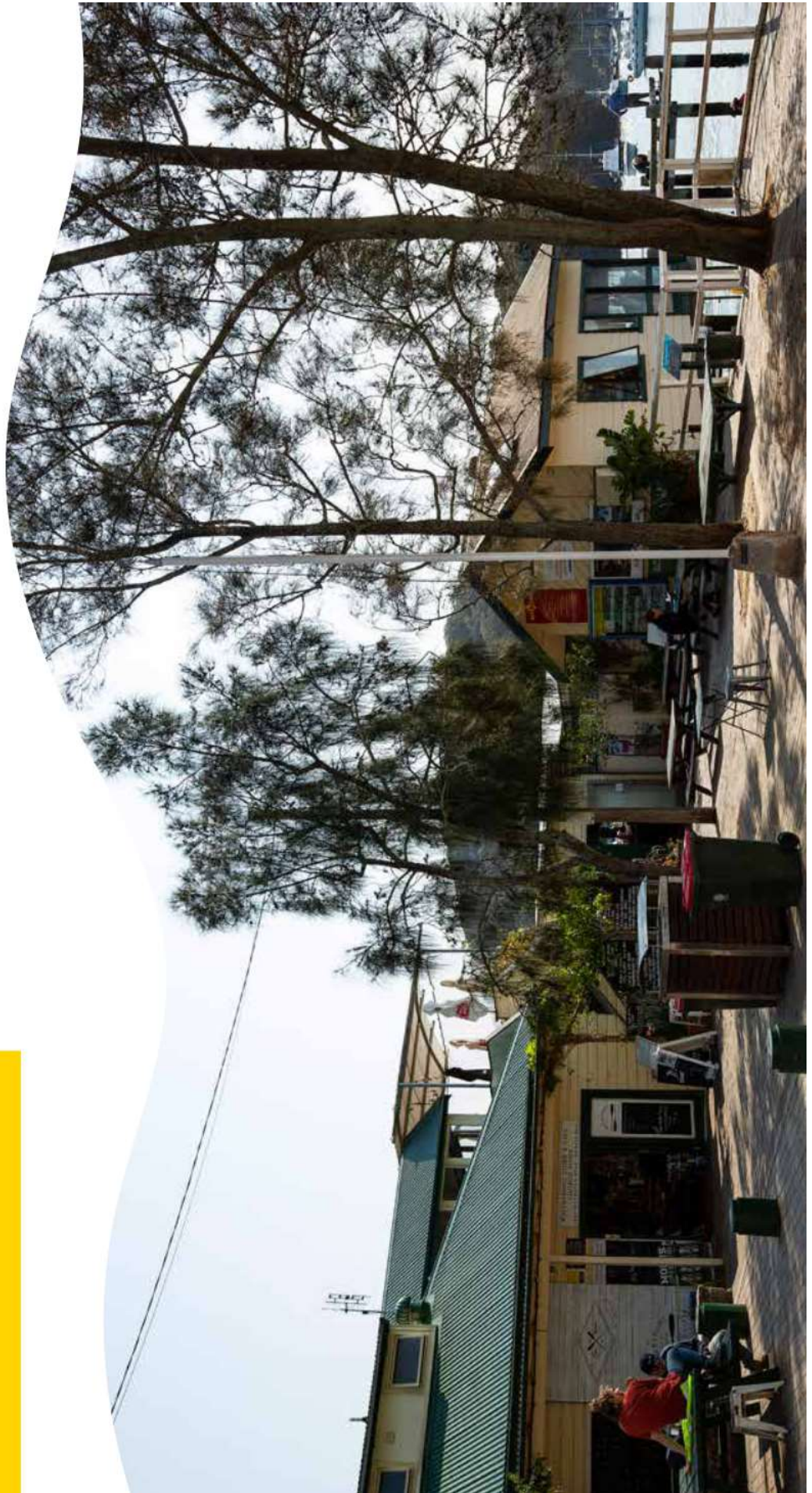
- 1 Economics of the waterway
- 2 Natural Environment
- 3 Natural Reserves and Recreation
- 4 Development of the waterway
- 5 Activating the waterway
- 6 Waterway regulation







**Theme 1.**  
Economics of  
the Waterway



## Our Objective

Sustainable economic growth balanced with protecting the significance and intrinsic value of the natural environment.

### Context

Council aspires to create a thriving and vibrant local economy where traditional and new industries are supported and local career, training and education opportunities are expanded – especially for young people (Shape 2028). 51% of employed residents live and work in the study area and the tourism sector alone employs 10% of the former Pittwater LGA<sup>9</sup>. The tourism sector plays a significant role in the economics of the study area with 670,000 visitors to the area every year significantly benefiting the local economy<sup>9</sup>.

The community has largely acknowledged that sustainable economic growth should be supported and is important in terms of local employment. Importantly, the clear message is for well-managed, balanced and sustainable growth that recognises the intrinsic value of the natural environment.

Potential opportunities for low-scale activation of the waterfront and public realm is likewise an important issue for the community with support for small-scale cafés and restaurants and the need to recognise Church Point locality as a multi-use hub for many waterway and foreshore users.

### What you told us

- Sustainable economic growth is important, especially in terms of local employment opportunities, however the community is concerned with large-scale economic development and associated impacts, such as traffic generation, parking constraints and impacts on the natural environment. Activating town centres will provide greater local job opportunities and reduce the need to commute out of the area for work.
- Tourism is important to the community. Growth in this sector needs to be well-managed and balanced to ensure the natural environment and local visual aesthetics and amenity are not adversely impacted upon.
- Small-scale food and beverage businesses, in strategic foreshore areas, are supported.
- Concern over large-scale development at Church Point. It is important to recognise that during the community engagement of this review, there was a level of uncertainty within the community given proposed development at Church Point and significant work undertaken as part of the Church Point Upgrade. The new seawall, pedestrian boardwalk, realignment of the road and construction of the car park has been completed and the reconstruction of the Church Point Cargo Wharf has just commenced.

<sup>9</sup> Pittwater Council, 2015; HillIPDA 2016



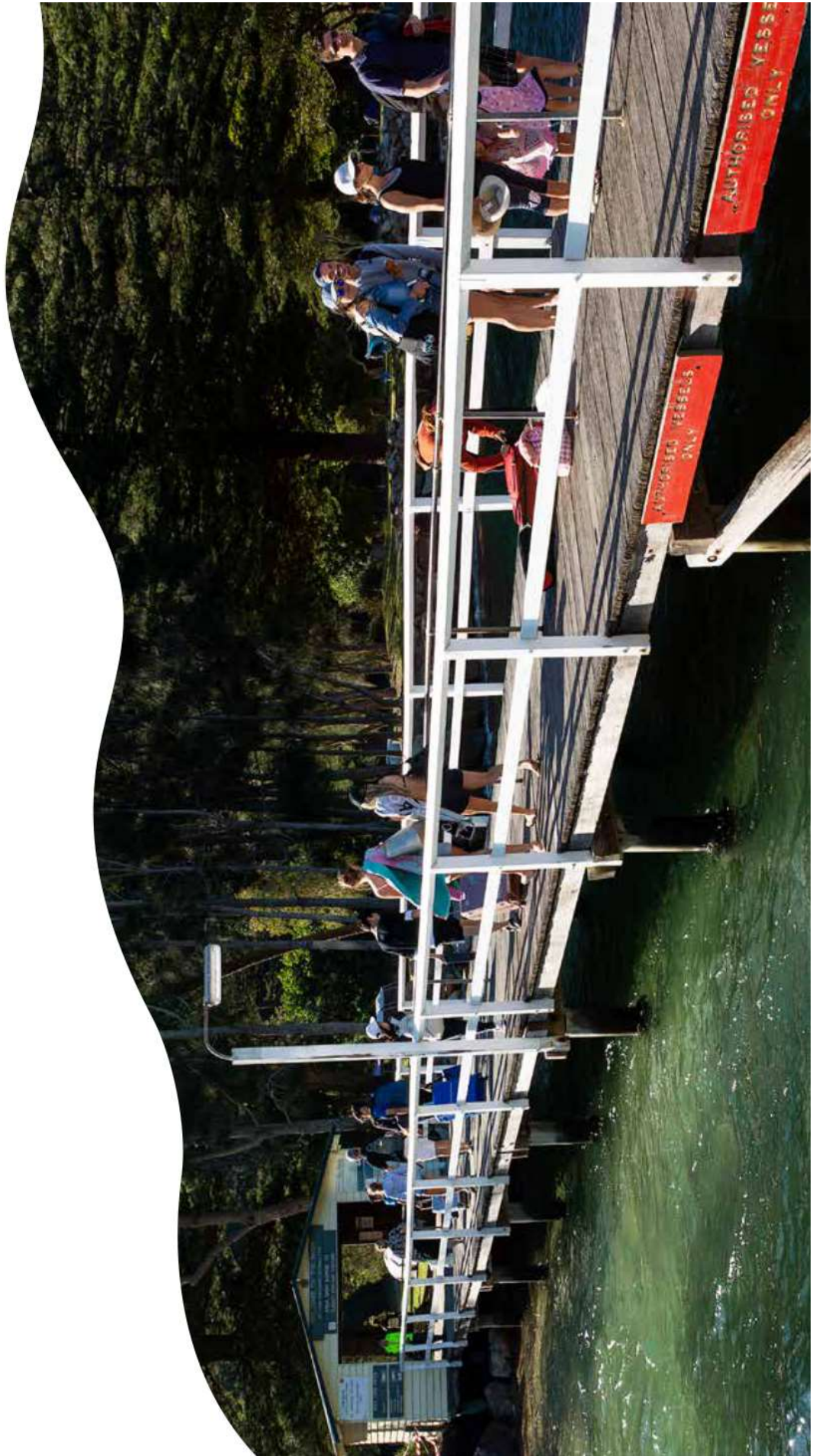
### Strategies

- Plan for, promote and manage sustainable tourism associated with the Pittwater waterway.
- Low-scale activation of strategic foreshore locations.
- Low-scale activation of the Church Point public realm/wharf locality.

### Directions

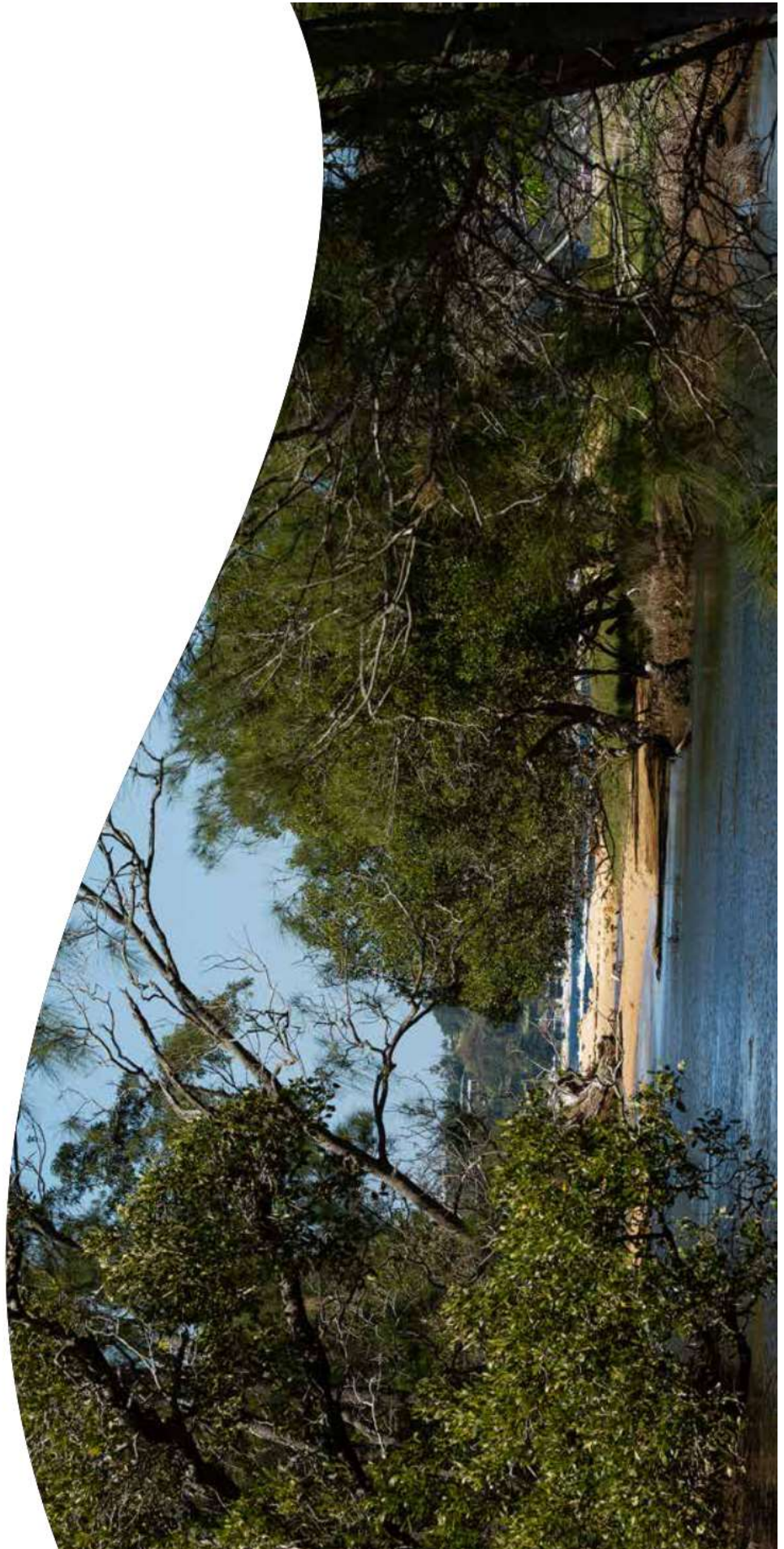
1. Commence a Northern Beaches Destination Management Plan to include the Pittwater waterway.
2. Consider additional signage, web-based information and publications highlighting areas of interest, services and facilities in the Pittwater waterway.
3. Encourage tourism accommodation initiatives with a focus on eco-tourism.
4. Encourage well-managed waterway-focused events.
5. Continue to implement the Conservation Management Plan, 2015 for Currawong
6. Actively encourage National Parks and Wildlife Service to commence a comprehensive management plan for The Basin in conjunction with Transport for New South Wales and Roads and Maritime Services.
7. Identify appropriate foreshore locations for low-scale cafés and restaurants accessible via sustainable and active transport networks and subject to sensitive development controls.
8. Investigate opportunities to initiate place-making initiatives to improve place outcomes at Church Point Wharf locality.
9. Maintain and ensure access to commercial opportunities around the Pittwater waterway.
10. Maintain the local economy that is based on the provision of recreational activities.







**Theme 2.**  
Natural Environment



## Our Objective

Protect, promote and celebrate the unique and valuable natural environment of Pittwater including its extensive ecological diversity and renowned scenic amenity.

### Context

Council aspires to protect the natural and built environment from the risk and impacts of global and local pressures (Shape 2028). The Pittwater waterway is one of the Northern Beaches' most significant natural assets. Clearly, scenic amenity and preservation of Pittwater's natural environment is a significant issue for the community, capturing the highest number of responses and comments during consultation. The protection of our delicate waterway habitats, ecological diversity and bushland are a high priority and intrinsically linked to sustainably managing the impacts of urbanisation, waste management, our resilience to natural hazards and climate change risk.

### What you told us

- The aquatic and terrestrial environments are equally important and highly valued by the community from a scenic amenity and ecological diversity perspective.
- Climate change risk and adaptation is an important issue and must be expanded upon within the Strategy.
- Waste management and illegal dumping are critical issues impacting the health of the waterway and local catchment.

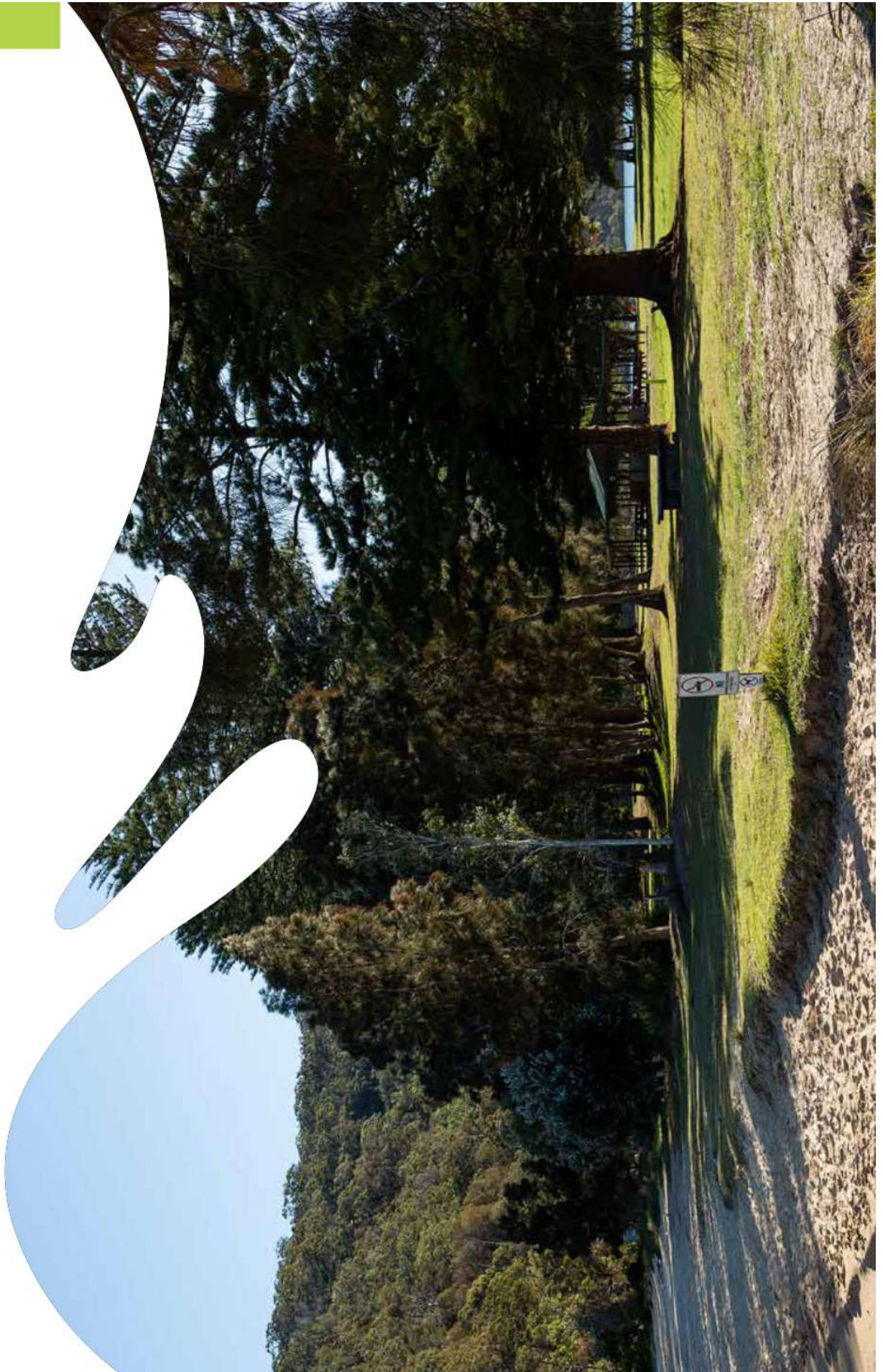


#### Strategies

- Preserve the scenic amenity and natural environment of Pittwater as a unique resource.
- Understand climate change risk and adapt to meet the challenges.
- Reduce the impact of urbanisation on water quality.
- Promote increased bush regeneration and management and protect ecological diversity.
- Improve environmental protection with long term-strategic planning and development controls
- Improve waste management to reduce impact of urbanisation on water quality.

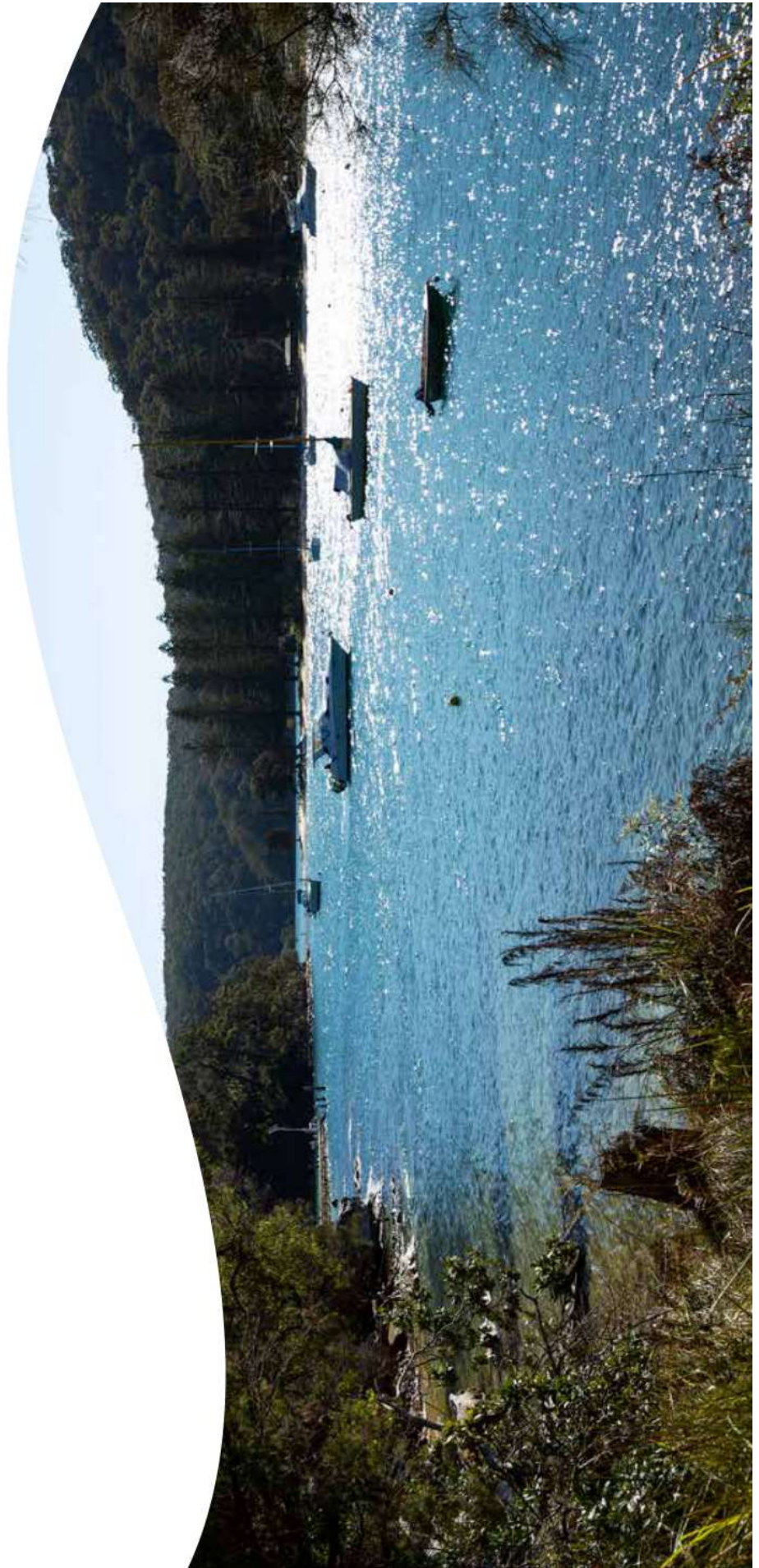
#### Directions

1. Lobby marinas to adopt the Clean Marina accreditation program, Fish Friendly Marina Certification Program in Pittwater and use sea-bins or SQID (Storm Quality Improvement Device).
2. Consider opportunities to make publicly available information regarding threatened species, populations and ecological communities known to occur in Pittwater.
3. Consult with NSW Marine Estate Management Authority (MEMA) on activities generating the highest threat to our environmental assets in Pittwater and the relevant management initiatives proposed by MEMA.
4. Investigate with the Department of Primary Industries (DPI Fisheries) establishing a 'no-go zone' protecting endangered seagrass habitats within the study area.
5. Investigate with DPI Fisheries the feasibility and funding for Fish Habitat enhancement projects and Reef Ball trials.
6. Consider risk management strategies to manage the impacts of extreme rainfall events resulting in flooding to estuary communities.
7. Develop and expand environmental education campaigns.
8. Strengthen environmental protection provisions in the waterways locality in Council's DCP.
9. Lobby state agencies to investigate provisioning for additional public waste pump-out facilities for the boating community.





**Theme 3.**  
Natural Reserves and Recreation



## Our Objective

Manage foreshore reserves in line with community aspirations and changing waterway dynamics.

### Context

Council aspires to create welcoming, accessible and affordable private and public places that foster good health and social interaction (Shape 2028). The Pittwater waterway is highly valued for its recreational value for both active and passive enjoyment on the water and foreshore locations. Council has the care and control of public reserves in foreshore locations.

Overall, the community indicated that they are generally satisfied with public reserves, recreational areas and associated facilities within the study area. They highlighted opportunities for greater public access to foreshore reserves, a continuous foreshore pathway, improved facilities at foreshore reserves, especially associated with recreation areas, and the need to reduce conflict between commercial and recreational fishing.

### What you told us

- Generally satisfied with recreational facilities, but improvements are required, especially in relation to community access to foreshore areas.
- Support the concept for a continuous foreshore path.
- Varied and diverse opinions in relation to commercial and recreational fishing. Approach is to manage and reduce user conflicts between each group.

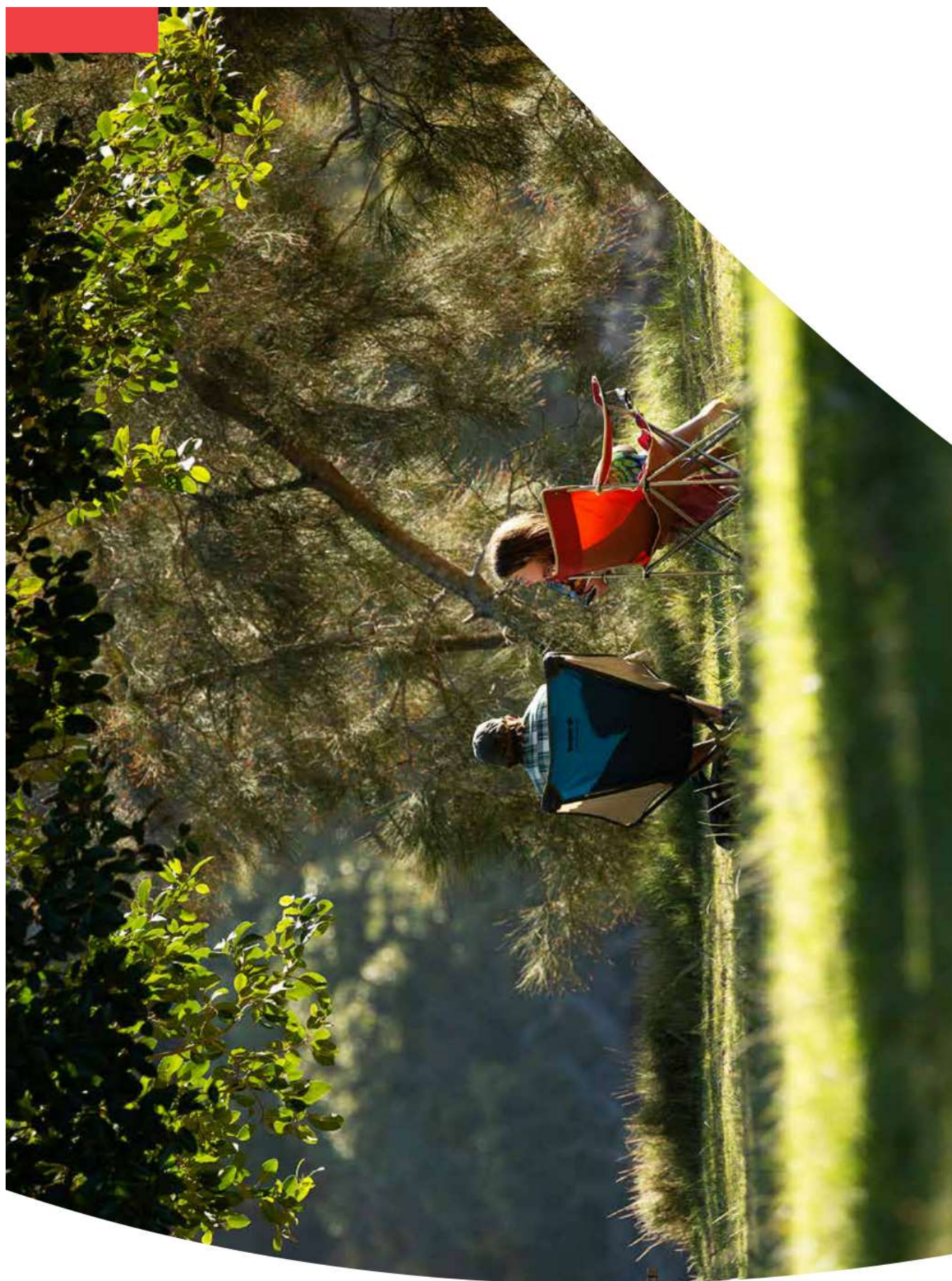
#### Strategies

- Continue management of foreshore reserves in line with community expectations and demand pressures.
- Increase foreshore accessibility and connectivity, including all-ability access.
- Advocate for sustainable use of resources.

#### Directions

1. Audit existing foreshore reserves to identify opportunities for increased public access
2. Investigate establishing a continuous foreshore path, including boardwalks, around the Pittwater waterway including opportunities to link into the Northern Beaches Coast Walk
3. Advocate for sustainable fishing practices within the study area and compliance of recreational fishing licences, rules and regulations
4. Promote best practice fishing through a link to DPI Fisheries on Council's website.







**Theme 4.**  
Development of the waterway





## Our Objective

Manage the increasing demand in boating, including associated pressure on boating storage and facilities.

### Context

Council aspire to be leaders in managing our resources sustainably and for the long term to ensure that development is balanced with our lifestyle and environment (Shape 2028). The trend of increasing boat ownership and the associated impacts of storage and facilities to support this growth is a critical issue facing the waterway. This becomes increasingly important in settings such as the Pittwater waterway where options to support growth must be undertaken in a sustainable manner such that the natural environment and marine habitats, water quality, water safety and local amenity are not adversely impacted upon.

The options to address boating growth and the necessary services and facilities to support it are wide and varied, including:

- **Moorings** - including strategies on how to efficiently and effectively manage moorings, mooring types, trials and mooring licences;
- **Marinas** - expansion in suitable locations and alternative dry storage options;
- **Alternative boat storage options** - investigating opportunities for increased dry storage for a range of vessel types including boats, kayaks, dinghies and smaller watercraft.

### What you told us

- Alternative boat storage options are important and needs to include a broad range of boats and watercraft.
- Community concerned about the age and deterioration of boating facilities, such as jetties, wharfs, boat ramps and tie-up facilities.
- Moorings are a major issue and represent an opportunity to meet increasing demand for boat ownership through more efficient and effective managing and licencing systems.
- On balance support for marina expansion in appropriate locations with development permissible only with consent.

### Strategies

- Maintain existing mooring areas within Council's DCP with no further expansion and explore opportunities to increase mooring density through alternative mooring design approaches and efficient management practices in collaboration with TNSW and RMS.
- Advocate for improvements to the mooring licence and management system.
- Encourage environmentally sensitive mooring locations to be protected through improved mooring design.
- Better advocate for offshore residents to be considered for priority access to moorings in offshore locations.
- Boating infrastructure and facilities to address projected boating demand.
- Support the provision of dry boat storage as an alternative storage approach.
- Provision of storage options suitable for small recreational water vessels to address demand.
- Expand the W2 zone, subject to a strategic sites assessment, to permit, with consent, sustainable marina expansion.



## Directions

1. Review Council's DCP controls to achieve the outcomes of this Strategy.
2. Retain the maximum number of moorings in Pittwater as 3641 in Council's DCP. Only review cap subject to improved mooring densities and improved management/enforcement of the mooring licence system.
3. Encourage RMS to consolidate mooring fields to improve the density of on-water storage and explore undertaking with TfNSW a multi vessel mooring trial on Pittwater in partnership with local marinas.
4. Lobby RMS to undertake a comprehensive review of the mooring licence system and introduce annual seaworthy checks with removal of boats that do not satisfy the mooring licence criteria.
5. Encourage RMS to investigate initiatives and opportunities for the conversion of swing moorings to environmentally friendly systems, with emphasis on mooring fields located in seagrass areas.
6. Advocate for RMS to investigate eligibility criteria for mooring applications in offshore locations to ensure that offshore residents are provided access opportunities.
7. Review existing procedures for Pittwater boat tie-up facilities, with a focus on flexible usage, increasing enforcement, improved signage and investigation of new facilities in high demand areas.
8. Update Council's web content to include related services and facilities for Pittwater such as servicing facilities, public amenities, leisure facilities and passenger access points.
9. Investigate options for a new boat ramp on Pittwater to cater for medium to larger boats.
10. Investigate sites for dry stack and on-trailer boat storage facilities in appropriate locations and seek funding from TfNSW and RMS to support initiatives.
11. Identify locations for additional dinghy, kayak and SUP storage for mooring access and recreational users and opportunities for shared dinghy use/rentals. Seek funding for additional storage from TfNSW and RMS.
12. Explore opportunities to retrofit and recondition traditional seawalls to enhance ecosystem resilience.



**Theme 5.**  
Activating the waterway





## Our Objective

To Provide a range of diverse opportunities to access, use and enjoy the waterway.

### Context

Council aspires to connect people...through seamless transport and innovative technologies (Shape 2028). Accessing and using the waterway is a major priority for the community. It incorporates considerations of linkages and connectivity, parking facilities for car, boat and trailers and on-water navigation issues.

One of the big issues relates to traffic and parking, including trailer and boat parking and dog off leashed access areas. The community is seeking improved parking facilities in the areas surrounding the waterway.

### What you told us

- Parking continues to be an important issue with 72% of survey respondents being dissatisfied with parking facilities.
- Improve public access to and along the foreshore, including looking at options for a continuous foreshore path, and align with sustainable and access transport networks.
- Trailer boat parking on public roads continues to be an issue for the community as does the use of personal watercraft (PWC).

#### Strategies

- Ensure parking provision is appropriate and managed to respond to demand, community needs and the local environment.
- Improve public access to the Pittwater waterway and along the Pittwater foreshore.
- Promote coordinated and integrated public transport access to the Pittwater waterway.
- Promote opportunities to increase active transport networks to and around the Pittwater waterway.
- Effective management approach to boat trailer parking.
- Effective management approach for the use of PWC.

#### Directions

1. Implement and monitor the Palm Beach Parking Demand Management Strategy
2. Investigate parking provision at marinas, boating facilities, foreshore reserves and boat trailer parking facilities.
3. Coordinate public access thoroughfares with a focus on improving public access to Pittwater foreshore.
4. Encourage TfNSW to integrate public transport timetables to ensure point-to-point transport including ferries, investigate additional ferry connections throughout Pittwater and expand on-demand and car-sharing initiatives.
5. Investigate opportunities for new bike routes that connect key localities to and along the foreshore.
6. Consider risk management strategies to manage the impacts of extreme rainfall events resulting in flooding to estuary communities.
7. Coordinate active transport networks and the Northern Beaches Coast Walk with the feasibility of a Pittwater foreshore walk
8. Develop and implement a Northern Beaches Council boat trailer impounding policy, including the erection of appropriate signage, seek funding from TfNSW and investigate other parking schemes for boat trailer parking.
9. Lobby RMS to undertake a review and investigate the impacts of PWC and consider appropriate actions to mitigate impacts though restrictions if necessary.





## Theme 6. Waterway regulation





## Our Objective

Effectively regulate and manage the Pittwater waterway sustainably and with transparency to meet the needs of the community and emerging demand pressures.

### Context

We want to take a best practice approach to planning and decision making related to the Pittwater waterway. The Review identified that the Local Environmental Plan and Development Control Plan need strengthening to support better outcomes for the waterways and this is captured in the strategies and directions.

The Pittwater Waterway Strategy 2038 is non-legislative and not mandated by legislation. Collaboration between State Government agencies, internal Council business units and private stakeholders will be essential for the effective delivery of the strategies and directions.

In relation to Council's Local Environmental Plan, there is a need to consider zone boundary changes with specific reference to the zone W2 Recreational Waterways in order to sustainably manage the increase in boat ownership and subsequent boat storage demand.

The approach will consider and investigate appropriate locations for sustainable marina expansion with development consent. It will consider water space efficiency of marina berths, which equate to a 64 berth to 7 moorings ratio per ha, and the need to sustainably manage boat storage demand pressures and mitigate associated environmental, aesthetics and neighbourhood impacts through the strategic site assessment and Development Application process.

### What you told us

- The strategies to expand the W2 zone around marinas whilst relinquishing equal mooring numbers generated high interest at all consultation phases. On balance, there was support for this approach but only in appropriate locations and only with development consent.
- Avalon Sailing Club and BYRA explained that the adopted Pittwater Local Environmental Plan 2014 has limited their ability to undertake development ordinarily incidental or subsidiary to clubs associated with recreational activities on the waterway.
- RMS advised that they will not be extending the current 'No Wash Zone' limit but will focus on increasing education and awareness of wash, as well as increasing patrols and enforcement to address its impacts. However, wash free zones and safety on the water are an important issue to the community.

### Strategies

- Effective governance and compliance of the Pittwater waterway and adjacent foreshore areas.
- Council's Local Environmental Plan to reflect and achieve the outcomes of the Pittwater Waterway Review.
- Council's DCP to reflect and achieve the outcomes of the Pittwater Waterway Review.
- A safe waterway for all to enjoy.
- Increased community education and awareness of waterway and boating matters.

### Directions

1. Undertake a Coastal Management Program in accordance with the requirements of the Coastal Management Act 2016 utilising the community engagement outcomes of the Pittwater Waterway Review.
2. Continue to ensure compliance on and adjacent to the waterway, investigate illegal foreshore works and unauthorised structures over the water at Coasters Retreat.
3. Undertake a strategic sites assessment and planning proposal to amend the LEP to expand the W2 zone in appropriate locations to permit, with development consent, sustainable marina expansion. Any additional marina berths are subject to equal number of moorings relinquished.
4. Investigate whether mooring pens should be prohibited in the W1 zone.
5. Undertake a planning proposal to the LEP for the inclusion of dry stack boat storage facilities to be permitted with development consent in zone IN2 Light Industrial; An Additional Permitted Use for Avalon Sailing Club and BYRA for Community Facilities and for the inclusion of small-scale cafés and restaurants on the waterfront as permissible with development consent.
6. Review Council's DCP controls, including section D15 – Waterway locality in accordance with the outcomes of the Pittwater Waterway Review.
7. Encourage RMS to extend Pittwater's low wash zone north of Longnose Point, Stokes Point and Dark Gully to minimise the impact of boats on other recreational activities and the environment and review boat license and training requirements.
8. In consultation with Fire & Rescue NSW, investigate the availability of foam on the Pittwater fire tender for marine fires and investigate the potential implications on water quality.
9. Investigate waterway education campaigns to raise environmental awareness, impact of climate change and water safety.





## Conclusions

The strategies and directions outlined in Pittwater Waterway Strategy 2038 will support the sustainable management of the Pittwater waterway for the next twenty years.

An implementation program will commence and essential to this is the commitment and coordination of State Government agencies, internal business units, local businesses and the community.

Our vision for this unique and valued natural resource is central to the objective of this Strategy, to “continue to be a place of natural wonder and beauty...a place that balances the majesty of nature with vibrant and diverse activity. A place for all to enjoy.”

Have Your Say on the draft Pittwater  
Waterway Strategy 2038  
at [yoursay.northernbeaches.nsw.gov.au](https://yoursay.northernbeaches.nsw.gov.au)







## SUMMARY OF SUBMISSIONS

<b>The Economics of The Waterway</b>	
<b>Key issues in submissions and stakeholder meetings</b>	<b>Council response</b>
Support for low scale tourism opportunities with land based accommodation options was noted in the feedback.	This approach is supported in The Strategy. <b>No change to the strategy required.</b>
Support for low scale activation of foreshore locations and the provision of cafes and restaurants in strategic locations that are well serviced by sustainable and active travel opportunities as well as infrastructure.	This approach is supported in The Strategy. <b>No change to the strategy required.</b>
Responses to activation and place making in Church Point were mixed.	Council will continue to investigate if there are opportunities to improve place outcomes. <b>No change to the strategy required.</b>
Support for the provision of additional signage and web based information on areas of interest, services and facilities available on the waterway	<b>No change to the strategy required.</b>
One response noted that events on the water should be organised in conjunction with Roads and Maritime Services. Noted.	<b>No change to strategy required.</b>
One response noted that the management plan should be undertaken with Transport for New South Wales and Roads and Maritime Services due to the ferry routes and moorings in the area.	<b>Direction amended to read ‘... for the Basin in conjunction with Roads and Maritime Services and Transport for New South Wales.</b>
Maintain and ensure access to commercial opportunities around the waterway/maintain the local economy	Council will continue to monitor commercial opportunities and access to the water as well as the local economy. <b>No change to strategy required.</b>
<b>Natural Environment</b>	
<b>Key issues in submissions and stakeholder meetings</b>	<b>Council response</b>
One submission raised concerns about the spread of <i>Caulerpa Taxifolia</i> .	Council will continue to work with state government agencies to minimise its spread. <b>No change to the strategy required.</b>
A general request for more rain water catchment options for new developments was noted.	This can be addressed as part of future DCP amendments. <b>No change to the strategy required.</b>
A number of submissions noted boats being dumped either on	Council will continue to work with the Roads and Maritime Services on management strategies of the waterway to deal

moorings or within Pittwater itself.	with boat dumping. <b>No change to the strategy required.</b>
A number of submissions raised concerns with illegal dumping both on land and in the water.	Council will continue to enforce compliance with regards to land based dumping and work with relevant state agencies on dumping in the water. <b>No change to the strategy required.</b>
A number of responses requested Council to consult with the Marine Estate Management Authority (MEMA) on matters relating to the waterway.	Council is already undertaking consultation with MEMA. <b>No change to the strategy required.</b>
Submissions raised concerns about wastewater on Scotland island entering Pittwater.	Council is currently progressing the Scotland Island Water and Wastewater Commercial Feasibility Study. This study is looking at the provision of wastewater services for Scotland Island. <b>No change to the strategy required.</b>
Stormwater runoff on Scotland Island	Council will continue to monitor stormwater runoff on Scotland Island. <b>No change to the strategy required.</b>
One submission noted that plastics are a threat to the health of the waterways and must be recycled properly.	Council is an active participant in reducing plastic waste and lobbying efforts to reduce plastic use through our Single Use Plastic Policy. Council also support a number of community groups that aim to reduce plastic use or waste such as Boomerang Bags. <b>No change to the strategy required.</b>
A number of submissions noted concerns regarding seagrass loss due to swing moorings.	Council will work with the Roads and Maritime Services on environmentally friendly moorings in seagrass areas. This matter is addressed under the Development theme. <b>No change to the strategy required.</b>
Seagrass loss discussed as part of moorings under Development theme rather than under Natural Environment theme.	Swing moorings are one of the most significant causes of seagrass loss in Pittwater. While they impact heavily upon the natural environment, they are also related to the Development theme within the strategy. <b>No change to the strategy required.</b>
Lobby marinas to adopt Clean Marina accreditation and Fish Friendly certification	Support for strategy noted in feedback. <b>No change to strategy required.</b>
A number of submission noted concerns regarding sedimentation and pollution entering Pittwater from drains	Any future management options such as gross pollutant traps will be considered under a Coastal Zone Management Plan. Sediment and erosion control will also continue to be applied via conditions of development consent. <b>No change to the strategy required.</b>
Feedback received requested that environmental monitoring and data be included in the strategy.	Council and state agencies already undertake a number of monitoring activities relating to the environment, such as the Office of Environment and Heritage who monitor water quality within Pittwater swimming sites . <b>No change to the strategy required.</b>
Feedback indicated support for 'citizen science' program around Pittwater.	This could be considered as part of the implementation program. <b>No change to the strategy required.</b>
One submission asked for the dredging of the upper reaches of Pittwater within Cicada Glen Creek as it was impacting upon moorings and private jetties, as well as work to restore the banks of McCarr's Creek Reserve.	The strategy does not propose dredging however this request has been forwarded within Council for investigation.
Support for additional boat	<b>No change to strategy required.</b>



pump out facilities was noted in the feedback, as well as the opportunity for potential grants to fund them under the NSW Boating Now program	
One submission suggested that a waste management plan be required for when boat licenses are renewed.	This can be included in the direction for Council to lobby Roads and Maritime Services to better manage the mooring system. <b>No change to the strategy required.</b>
Request to amend direction 8 for Development Control Plan (DCP) amendments to be based on the Office of Environment and Heritage's Risk Based framework.	This can be considered as part of future changes to the DCP. <b>No change to the strategy required.</b>
Responses support for fish habitat protection and enhancement programs as well as potential grant opportunities.	Council will continue to consult with Department of Primary Industries - Fisheries on protection and enhancement programs. <b>No change to the strategy required.</b>
Consult Fisheries	Council will continue to consult with DPI – Fisheries on the Pittwater Waterway Strategy. <b>No change to strategy required.</b>
A number of responses noted support for 'no go' zones while another noted the State Government's commitment to no loss of fishing access under the Hawkesbury Shelf marine park proposal.	Council will continue to investigate with DPI Fisheries about establishing zones of protection for seagrass habitats within the study area. <b>No change to the strategy required.</b>
Support for education programs and a number of state agencies noted the opportunities for cross agency collaboration.	<b>No change to the strategy required.</b>
One submission noted that if it was appropriate commercial fishing within Pittwater should be phased out.	Council will continue to consult with DPI Fisheries and Maritime Estate Management Authority on commercial fishing within Pittwater. <b>No change to the strategy required.</b>
Amend Strategy 4 wording from bush care to bush regeneration	<b>Strategy change to reflect change in wording.</b>
Amend the wording of Strategy 5	<b>Strategy amended to read 'Improve environmental protection with long term-strategic planning and development controls'.</b>
One strategy requested that Council prepare a Coastal Zone Management Plan.	This is addressed under Direction 1 of Theme 6 Waterway Regulation. <b>No change to the strategy required.</b>
A number of submissions raised issues around environmentally friendly seawalls being dealt with under the Development theme and not the Natural Environment theme	As a predominantly development based matter, they have been included under that theme. <b>No change to the strategy required.</b>
<b>Natural Reserves and Recreation</b>	
<b>Key issues in submissions and stakeholder meetings</b>	<b>Council response</b>
Increase foreshore accessibility	Support for this strategy was noted in the feedback received. A

and connectivity/audit existing foreshore reserves to identify opportunities for increase public access	number of submissions also raised issues around the alienation of public space and restrictions placed on access. Council will continue to monitor public spaces and alienation. <b>No changes to strategy required.</b>
A number of submissions raised issues around the condition of wharves and access infrastructure as well increasing demand upon them. One submission noted the availability of funding for infrastructure that improves access opportunities.	Council will investigate opportunities for funding under the Maritime Infrastructure Delivery Office (MIDO) and grants. <b>No change to strategy required.</b>
Support for a foreshore walk was noted, however a number of submissions raised issues with regards to access over private property.	Council will continue to investigate the walkway's feasibility and how to avoid access over private property. <b>No change to strategy required.</b>
Broad scale support for sustainable fishing.	Council will work with the Department of Primary Industries – Fisheries on education campaigns around sustainable fishing and signage. <b>No change to direction required.</b>
<b>Development of the Waterway</b>	
<b>Key issues in submissions and stakeholder meetings</b>	<b>Council response</b>
A number of submissions raised comments regarding the pricing of moorings. Some indicated they are a cheaper option than a marina berth, while others indicated they should be priced to reflect demand.	Council will continue to work with Roads and Maritime Services and Transport for New South Wales on the management of mooring issues. <b>No change to the strategy required.</b>
A number of submissions noted the damage to seagrass caused by swing moorings and overall there was broad support for trials of alternative moorings systems.	Council will work with Roads and Maritime Services and Transport for New South Wales on establishing trials within Pittwater. <b>No change to the strategy is required.</b>
There was some support for limiting mooring numbers through replacing a boat on a mooring with another boat as the mooring became available, rather than putting in a new mooring.	Mooring numbers in Pittwater are set by the cap agreed to by Council and the Roads and Maritime Services. The suitability and effectiveness of this cap has been considered as part of the Review. It has been established that the cap is an effective means of controlling the proliferation of boats on Pittwater. It strikes a balance between boat users and other users of the waterway. <b>No change to the strategy required.</b>
Feedback indicated support for marina expansion tied to an equivalent reduction in moorings.	Council will continue to investigate the feasibility of marina expansion with an equivalent reduction in moorings. <b>No change to the strategy required.</b>
There was broad support for the mooring cap, however a number of submitters asked for it to be lowered.	The current mooring cap was set by an agreement between Council and the Roads and Maritime Services. The Strategy does not propose lowering the cap due to the forecast increased demand in boating. Any changes to the mooring cap would be subject to further review. <b>No change to the strategy required.</b>
There was some support for a	This is not an identified strategy option. The strategy instead

potential mooring buyback scheme.	recommends looking at the consolidation of mooring fields. <b>No change to the strategy required.</b>
A number of submissions considered that Pittwater was becoming a boat storage area with little space left over for recreational activities.	Mooring areas are managed by the Roads and Maritime Services (RMS) whereas Council manages zoning controls for marinas. Council and RMS will continue to manage the waterway so that competing demands for storage and recreation space can be balanced. Council will also continue to investigate alternative mooring types with the RMS that consolidate mooring fields and increase the space for recreational activities. <b>No change to the strategy required.</b>
A number of submitters raised the idea that the total number of boats in Pittwater could be limited for a safety, navigation and aesthetic reasons.	This idea is considered unlikely to be enforceable. Rather it would be more appropriate to manage these concerns through concentrating on moorings and marina berths. <b>No change to the strategy required.</b>
Overwhelming support for dry storage option.	Dry storage can be an efficient use of limited physical space. Council intends to support the development of dry storage options through Direction 5 to prepare a planning proposal to add it as a permitted use within the IN2 Light Industrial Area <b>No change to the strategy required.</b>
One submission noted concern around changes to moorings outside of Pittwater itself.	The strategy does not propose any changes to moorings outside of Pittwater. <b>No change to the strategy required.</b>
Permanent population of vessel residents	One submission asked for Council to plan for people living permanently on vessels in Pittwater. Council does not support establishing a permanent residential community of live-a-boards. However The Strategy aims to facilitate additional pump out facilities to prevent raw sewerage entering the waterway from boats. <b>No change to the strategy required.</b>
There was some support for sustainable marina expansion, subject to the resolution of environmental and servicing issues such as car parking. It was not supported by all submitters who raised issues regarding seagrass loss and car parking demand or overflow.	As there is finite storage space and anticipated overall growth in boat numbers in the future, Council must give consideration to all boat storage options. <b>No change to the strategy required.</b>
Strategy should not promote growth but manage the current demand	Council has no ability to restrict overall demand and growth in boats. However we must sustainably manage the waterway and plan for anticipated future outcomes, including the projected increase in the size of boats and overall numbers. We are addressing this through a number of different boat storage options both in and out of the water including facilitating dry storage, investigating sustainable marina expansion and alternative mooring methods to traditional swing moorings. <b>No change to the strategy required.</b>
One submission noted changes in boating trends and the need to be flexible in management approaches.	Council continues to monitor changes in trends. We are responding to increased seasonal demand by opening the overflow car parking in Careel Bay, and continue to plan accordingly. <b>No change to the strategy required.</b>
Submissions asked for the ramp at the Church Point car park to be reopened.	Council will continue to investigate appropriate locations for additional boat ramps as per direction 9 of the strategy. It is noted the boat ramp at Bayview has been upgrade. <b>No change to the strategy required.</b>
There was support for the	Council will continue to investigate appropriate locations for

provision of new boat ramps to manage demand for boat launching spaces.	additional boat ramps as per direction 9 of the strategy. <b>No change to the strategy required.</b>
Feedback indicated there was support for an annual seaworthiness check for boats on moorings, similar to a motor vehicle pink slip.	Council considers this an appropriate way to help reduce the impact of mooring minders and will continue raise this Roads and Maritime Services. <b>No change to the strategy required.</b>
Feedback received indicated support for the review of existing policies and procedures for tie-up facilities at Council wharves and facilities	Changes to the policies and procedures for vessel tie-ups can be considered as part of the implementation plan for the strategy. <b>No change to the strategy required.</b>
Storage for smaller watercraft such as kayaks and dinghys	There was support for additional storage facilities for smaller watercraft such as kayaks and dinghys. Roads and Maritime Services and Transport for New South Wales noted the ability to apply for grants to fund these storage projects. Council is already constructing or has constructed a number of storage facilities around Pittwater such as those at Bothams Beach, Careel Bay, Church Point, Clareville Beach, Currawong Beach and Dark Gully. <b>No change to the strategy required.</b>
Enforcement of regulations/moorings	A large number of submitters raised issues of the non enforcement of regulations and issues with mooring compliances that were unresolved. Roads and Maritime Services noted that they have the responsibility for moorings and are proactive in this field through their boating safety officers. <b>No change to the strategy required.</b>
A number of submission raised issues regarding the disposal of old boats and their removal from moorings.	Council will continue to work with the Roads and Maritime Services on end of life management options. <b>No change to the strategy required.</b>
Feedback indicated that any additional boat facilities would also attract increased parking demand.	As part of the expansion of boating facilities Council will consider the demand for and supply of parking. <b>No change to the strategy required.</b>

### Activating the Waterway

Key issues in submissions and stakeholder meetings	Council response
Ensure parking provision is appropriate and managed to respond to demand, community needs and the local environment	A number of submissions noted there are peaks in demand around Summer and the weekend. Council has recently opened a new car park in Church Point along with changes to parking controls in Palm Beach and will monitor impacts of changes. A number of submissions noted that the Careel Bay overflow parking in Summer was a good idea but was not working due to long waiting times for busses or was not appropriate for people with boats. Council will continue to operate the overflow system and liaise with Transport for New South Wales regarding Summer bus timetables. <b>No change to the strategy required.</b>
Improve public access to the Pittwater waterway and along the foreshore	Submissions asked for greater enforcement of restrictions on foreshore development. Council will continue to investigate illegal works. <b>No change to the strategy required.</b> One marina noted that potential upgrades on its site could increase public access to the waterway. <b>No change to the strategy required.</b>



Promoted coordinated and integrated public transport as well additional services	Transport for New South Wales noted that there may be the need for additional services as the population and tourist numbers increase however it would require additional services and facilities. Submission from the public generally supported additional ferry services. Council will continue to liaise with Transport for New South Wales regarding public transport. <b>No change to strategy required.</b>
Boat trailer parking, enforcement and restrictions	A number of submissions asked for better enforcement of existing restrictions on boat trailer parking or for them to be removed from along main roads and local streets. One submission requested that Council extend the 'no parking motor vehicle excepted' signage to around Pittwater. Council at its meeting of February 2019 agreed to explore further options to manage trailer parking as part of the Northern Beaches Parking Plan. <b>No change to the strategy required.</b>
Effective management approach for the use of PWCs/Lobby Roads and Maritime Services to investigate alternative management strategies	A number of submissions raised issues with PWCs (i.e. jet skis) in and around Pittwater. Roads and Maritime Services and Transport for New South Wales indicated they were happy to discuss strategies to managing PWCs. <b>No change to strategy required.</b>
Implement and monitor the Palm Beach Parking Demand Management Strategy	Submissions noted there may be some unresolved parking problems in Palm Beach. This could be addressed through the monitoring of the Palm Beach strategy. <b>No change to the strategy required.</b>
Investigate parking provision at marinas, boating facilities, foreshore reserves and boat trailer parking facilities	Submissions noted there may be some trailer parking issues in and around Sandy Bay and the Woorak/Illuka reserves. These issues could be addressed through this strategy. <b>No change to strategy required.</b>
Cost at Rowland Reserve	Council recently endorsed reduced car parking fees in Rowland Reserve. <b>No change to the strategy required.</b>
<b>Waterway Regulation</b>	
<b>Key issues in submissions and stakeholder meetings</b>	<b>Council response</b>
Up to date boat storage and mooring data	Council will utilise the information and updated mooring data received from Transport for New South Wales during the public exhibition period to inform the Strategy implementation. Council will continue to consult with Roads and Maritime Services and Transport for New South Wales during the implementation stage. <b>As a result of the feedback from Transport for New South Wales, the table on page 12 is to be removed and the mooring data table on page 13 of the Strategy updated to show all current moorings in each mooring field in the study area at this point in time.</b>
Avalon Sailing Club and Bayview Yacht Racing Association requested that the proposed additional permitted uses for their clubs be revised to 'community facilities' as it would better fit their current use.	Council consider this a reasonable request and supports the proposed amendment. <b>As a result of this feedback, Direction 4 on pg. 44 of the strategy will be amended accordingly.</b>
Dogs	Dogs and dog recreation areas are not within the scope of the strategy. <b>No change to the strategy required.</b>

No enforcement of regulations/rules	Council with Roads and Maritime Services and Transport for New South Wales continue to monitor and enforce regulations and restrictions around the waterway. <b>No change to the strategy required.</b>
Education and awareness campaigns	Roads and Maritime Services are already proactive in education and awareness campaigns through their boating safety officers. There may be opportunities for Council to work with the Roads and Maritime Services on joint campaigns. <b>No change to the strategy required.</b>
A number of submissions raised issues with the number of barges and their activities on the waterway.	Council will continue to work with the Roads and Maritime Services with regards to waterway regulations and barges. <b>No change to the strategy required.</b>
There was support for and against marina expansion.	A number of submitters raised environmental issues such as a seagrass while others mentioned parking problems. However given the forecasted increase in boat ownership, Council will continue to investigate sustainable marina expansion to cater for this growth. <b>No change to the strategy required.</b>
There was overwhelming support for dry stack storage options in industrial areas	Council will continue to investigate this option. <b>No change to the strategy required.</b>
A number of submissions support the extension of low speed and wash zones. A number made reference to no wash zones now being known as 'low wash' zones.	<b>As a result of feedback this direction has been amended to refer to 'low wash zones' instead of 'no wash zones'.</b>
Coastal Zone Management Plan	Feedback received indicated support for a Coastal Zone Management Program for the Pittwater. <b>No change to the strategy required.</b>
Feedback received indicated support for the prohibition of mooring pens in the W1 zone.	Council will prepare a planning proposal to facilitate this change. <b>No change to the strategy required.</b>
Foam on tender	Support for the provision of foam on the fire tender was noted. <b>No change to the strategy required.</b>
A number of submissions asked for more stringent controls on marine based development applications.	Council will continue to review and update the waterway controls in the Pittwater 21 Development Control Plan. <b>No change to the strategy required.</b>
Feedback received mentioned the need for Council to work collaboratively with state government agencies and authorities as many areas are outside of Council's responsibilities.	Council is already working with a number of state agencies on the strategy and will continue to do so. <b>No change to the strategy required.</b>
<b>Other Matters</b>	
<b>Key issues in submissions and stakeholder meetings</b>	<b>Council response</b>
Pie chart and survey data don't indicate where the data came from	The pie chart was based on data received through the survey undertaken for the Pittwater Waterway Discussion Paper. However the attribution was left off in the strategy. <b>The strategy will be amended to indicate where the data came from.</b>
Update references – maritime	A number of submission mentioned updating or correcting

strategies (mooring, boating now etc.)	references. <b>Minor changes to the strategy to amend references.</b>
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## Chapter 14 - Avalon Beach

Prepared by Pittwater Council, 18 February 2013

**DRAFT** - Updated by Northern Beaches Council, May 2019

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## 14.1 INTRODUCTION

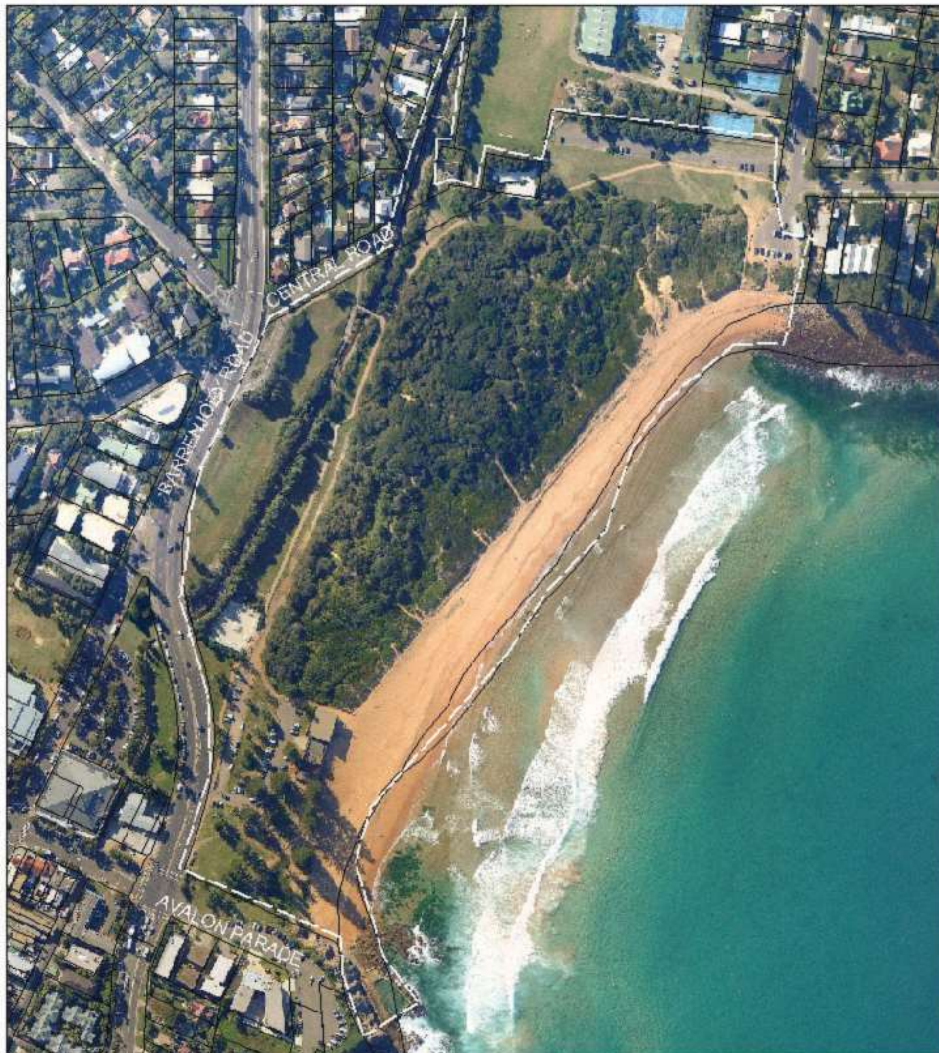
### 14.1.1 LOCATIONAL CONTEXT OF AVALON BEACH

Avalon Beach lies east of Clareville, between Whale Beach to the north and Bilgola to the south.

Avalon Beach is located in the suburb of Avalon Beach, having been renamed from Avalon, as assigned 20 January 2012.

**Figure 14-1** shows the area covered within this Plan of Management, illustrating the Reserve boundary and adjoining land uses. The beach is bounded by Barrenjoey Road to the west.

Figure 14-1 | Avalon Beach – Boundary Map



The management area covered by this plan of management is shown by the white dashed line. It should be noted that this line is an indicative boundary only, particularly the seaward boundaries given the ambulatory nature of high and low mean water marks.

Avalon Beach village shopping centre is located within walking distance of the southern end of the beach. Other adjoining and nearby land uses include Maria Regina Primary School, Barrenjoey High School, Barrenjoey Montessori School, a fire- station and pumping station.



The study area incorporates Avalon Beach and Avalon Surf Life Saving Club, rock platforms, a rock pool and sand dunes. Surrounding parklands consist of Avalon Beach Reserve which contains the access road and vehicle parking areas, a skate park, a fenced off leash dog exercise area, a small playground and a picnic area. Separated at the northern end of the beach is Des Creagh Reserve, which provides road access parking and a small area of parkland.

#### **14.1.2 HISTORY OF AVALON BEACH**

The early land grants in the Avalon area were to John Farrell in 1827 and Father John Joseph Therry in 1833. In 1921 Arthur J. Small instigated the subdivision of the Avalon area and funded public amenities including Palmgrove Park and the golf course and he named the area 'Avalon'.

The Avalon Beach SLSC was established in 1925 with the original financed by A. J Small. The former SLSC building dating from 1961 was rebuilt in 2014.





Avalon Beach in the 1920s showing the location of the original surf club building, Norfolk Island Pine Trees, the dunes and the kiosks. (Source: Avalon Historical Society).

A.J. Small planted the Norfolk Island Pine trees (*Aracaria hetrophylla*) along the beachfront. Norfolk Island Pine trees are endemic to Norfolk Island. They appealed to earlier settlers due to their distinctive appearance and coniferous shape. In 1816 Mrs Macquarie, wife of Governor Macquarie planted a Norfolk Island Pine tree in the Demesne (Domain). Norfolk Island Pine trees continued to be planted during the twentieth century. Their presence in coastal areas is further linked to their ability to withstand salt and wind.

Avalon Beach is widely documented to be the first place in Australia where modern malibu surfboard riding was displayed in November 1956, contributing to the Australian coastal culture. This eventuated from the American and Hawaiian lifesavers visiting Avalon to compete in the local carnival when they first arrived for the demonstration sport with the 1956 Olympics. From this event the lifesaving movement in England established itself with the surfboard industry also being started due to 4 lifesavers from the club going over for lifeguard positions. The rubber ducky also could be said to have been a result of that day. A very successful commemoration of this event was conducted between the board riding and surf lifesaving communities 50 years later in the Surf Club. This has assisted with the very good relationships between all the surfing fraternities at the beach.



The large dune to the north was removed (mined) in the 1960s to supply Sydney's building market. Mining was stopped due to local opposition to the loss of the dunes. The Soil Conservation Service reshaped the remaining sand and dunes (not the north-west area) and divided the dunes into 'paddocks' fenced the area and installed walkways.

Avalon beach in 1964. The mining for sand was from the area in the bottom right hand side of the photo. Tracks and machinery can be seen in this location. (Source: Avalon Historical Society).

There is no record of the plants used during the dune stabilisation work. An article in the Soil Conservation Journal stated that several local native dune plants had been planted, and some non-native species but it didn't name them - possibly Bitou was among them as it had been in use to stabilise beaches after sand mining along the coast in the 1960s. Regardless of whether Bitou was planted or not, by the late 1980s Avalon dunes were 80% covered in Bitou.

Since 1989, the dunes have undergone a remarkable renewal and rehabilitation, with weeding and planting, largely undertaken by the *Friends of the Avalon Dunes Dunecare group* assisted by several grants, and works by Warringah, Pittwater and then Northern Beaches Councils.

Many people who remember the dunes in the 1960s think they were much higher but this is probably not the case. The dunes look very different now covered in thick vegetation compared to looking up a hill of sand. Since rehabilitation a lot of sand has been captured by dune vegetation on the foredunes.

The story of the restoration project is available in *Avalon Dunes: Restoring a Metropolitan Dune System*, by NSW Environmental Trusts and Friends of Avalon Dunes Dunecare Group. Publisher: the Friends, 1995.



Avalon in the early 1960s. (Source Avalon Historical Society).

Since the previous Plan of Management for Avalon Beach was adopted by Pittwater Council in 2013, the rebuilt Avalon Surf Life Saving Club was opened on 31 August 2014.

The landscaping in the masterplan for Avalon Beach has been implemented.

Northern Beaches Council trialled a fenced off leash dog exercise area at the north-western section of Avalon Beach Reserve in 2017-18. The trial was successful, so the off leash dog exercise area was made permanent in April 2019.

#### **14.1.3 DESCRIPTION, USE AND CONDITION OF AVALON BEACH**

Avalon Beach is a surfing beach. The beach is patrolled by Avalon Beach Surf Life Saving Club members and Council lifeguards during the summer season.



The northern end of Avalon Beach has a unique local character with its expansive view over the beach and dunes as well as the bush- clad hills beyond. This location is popular with local surfers because it offers protection from the dominant north-easterly winds in summer.







The use and condition of the areas and facilities at Avalon Beach are outlined below.




Table 14-1 | Use and condition of Avalon Beach

Description	Uses	Condition	Images
<b>1 North Avalon amenities building</b>			
Male and female toilets in the amenities building at the northern end of Avalon Beach cater for people using North Avalon Beach and Des Creagh Reserve. An outdoor shower is also provided. Murals have been painted on the exterior of the building.	Changing, public amenities	Good	
<b>2 Northern carpark and beach access</b>			
The eastern steps leading down to the beach from the carpark have been landscaped with sandstone faced terraces, and some seating is provided. Bike racks and bins are provided. A stormwater outlet located at the base of these steps seriously affects the amenity and recreational use of this area after storms and rain periods. During and after rain periods or storms, the stormwater outlet near the base of the North Avalon beach steps, scours the beach face and creates potential health risks.	Vehicle parking, beach access	Good	 
<b>3 Des Creagh Reserve</b>			
Des Creagh Reserve is located at the northern end of the beach. It is a flat open grassed area with no shade trees and few facilities; however, it provides an informal recreation area adjacent to the Barrenjoey Montessori School and Barrenjoey High School.	Picnics, informal recreation, outdoor cinema	Good	 

Description	Uses	Condition	Images
<b>4 Car park</b>			
Des Creagh Reserve includes a 46 space sealed car park	Access to the beach, Barrenjoey Montessori School and occasional access to Barrenjoey High School	Very good	
<b>5 Pathway network</b>			
An open lineal shared pedestrian/ cycle corridor known locally as the 'Yellow Brick Road' connects the southern reserve road entry area to North Avalon Beach and car park at Tasman Road. This area is divided and dominated by the Careel Creek concrete drainage channel. The area is hot in summer because it is devoid of shade trees and the dunes block the sea- breezes.	Walking, cycling	Very good	
<b>6 Avalon Dunes</b>			
The sand dunes are located north of the SLSC building and extend behind the majority of the beach to Des Creagh Reserve.	Protective barrier and a significant backdrop to the beach.	Good	
Formed walkways, some with wooden rails, are provided through the dunes with protective fencing.	Pedestrian access to the beach	Good	
<b>7 Careel Creek</b>			
Careel Creek is a concrete drainage channel as it drains through Avalon Beach Reserve.	Drainage	Adequate	







Description	Uses	Condition	Images
Trash racks are located across the channel between the Yellow Brick Road access pathway and the off leash dog exercise area	Gross pollutant trap	Good	
Footbridges across Careel Creek provide pedestrian access between the western reserve and the east.	Pedestrian access	Southern steel footbridge to be replaced.  Northern wooden footbridge adequate	 
<b>8 Western Reserve area</b>			
Fenced off leash dog exercise area with tap and dog drinking bowl	Off leash dog exercise	Good	
Unmarked grass netball courts with goal posts. Sealed netball courts are proposed to be constructed in this area.	Netball training, informal recreation	Poor	
<b>9 Skateboard park</b>			
On the western side of the car park is the Avalon Skate Park, comprising a concrete bowl, ramps and rails for all skill levels.	Well used by local young people for skateboarding, scootering, in-line skating, BMX cycling.	Very good	

Description	Uses	Condition	Images
<b>10 Central Reserve</b>			
Informal unsealed parking areas ease parking overflow. This area is subject to drainage problems and conflict with existing tree and dune planting.	Vehicle parking	Poor	
Sealed netball courts are proposed to be constructed in this area.	Overflow vehicle parking	Good	
<b>11 Car park reserve area</b>			
Grassed area with picnic table and access paths / steps	Informal recreation	Good	
<b>12 Southern carpark</b>			
This area forms the vehicle entry point to Avalon Beach and Avalon Beach Reserve.	Vehicle parking	Good	
The southern car park is surfaced and line marked adjacent to the SLSC building, accommodating approximately 35 cars. The lower section adjacent to the shared path and skate park is also formalised and sealed.	Vehicle parking	Very good	
The car parks adjoining this area can be hazardous for pedestrians, specifically at the entrance off Barrenjoey Road and in particular during peak periods.			
Public art has been incorporated into bollards in the southern carpark.	Separation of carpark and landscaping	Good	

Description	Uses	Condition	Images
<b>13 Avalon Surf Life Saving Club</b>			
The Avalon Beach SLSC Building is located on the beach frontage of South Avalon Beach. The building incorporates a Club Lounge, Club Room/Community Function Space, Hall of Champions, caretakers flat, meeting room, offices, restaurant and cafe, club and public amenities, gym, nippers canteen, lifeguard room, and extensive storage areas for rescue equipment, surf boats and boards. The building is naturally ventilated, highly insulated, uses minimal energy, and collects its own rainwater and solar power.	Club and community activities, functions, residence, meetings, storage	Excellent	 
<b>14 Avalon Beach Reserve</b>			
The grassed area adjacent to the SLSC building includes seating, picnic settings, children's play equipment, sandstone seating, flagpole, litter bins, bubblers, outdoor showers / taps, bike racks, and lighting.	Picnics, children's play, relaxing, ceremonies	Equipment, furniture and landscaping are fit for purpose.  Grass areas are worn.	  
<b>15 Corner Barrenjoey Road and Avalon Parade</b>			



Description	Uses	Condition	Images
The corner of Barrenjoy Road and Avalon Parade is an unlandscaped grassed area.	Pedestrian access to the surf club and beach from Avalon Village and the bus stop	Good	
<b>16 South Avalon Beach</b>			
The southern area of the reserve at the base of the headland provides the main focus for access to the beach and rock pools. The dunes do not extend into this area, therefore it is exposed to strong winds and erosion. The existing mature Norfolk Island Pine trees are threatened by the coastal conditions.	Recreational activities, surf club events, access to the rock pool	Poor	
<b>17 Avalon Rock Pool</b>			
The rock platform at the southern extent of the beach accommodates a rock pool which is divided into a larger 25 metre swim pool and smaller children's pool 7 metres in length.	Swimming, access to the surf	Adequate	
<b>18 Headland</b>			
A headland forms the southern end of the Reserve, bounded by car parking along Avalon Parade / Surfside Avenue. The headland provides an excellent vantage point to view the surf beach and coastal panorama. A low post and rail fence provides a barrier to the street along the cliff edge.	Enjoying views	Naturally eroding	

#### 14.1.4 PROCESS OF UPDATING THIS PLAN OF MANAGEMENT

Community engagement undertaken during preparation of the 2013 Plan of Management included:

- A community meeting held on 18 November 2012
- Several stakeholder meetings held in November 2012 and January 2013, with Friends of Avalon Dunes Dunecare group, Avalon Chamber of Commerce, Avalon Historical Society, NASA and north Avalon residents.

Issues raised at the meetings and submissions received were taken into account during preparation of the draft Plan of Management, which was placed on public exhibition for comment. Pittwater Council adopted the Plan of Management on 18 February 2013.



Since adoption, Northern Beaches Council has undertaken community engagement for several projects proposed for Avalon Beach Reserve and Avalon in general.

In May-June 2017 Council sought community feedback on a proposed trial of an off leash dog exercise area in the north-west section of Avalon Beach Reserve. Council resolved to proceed with the trial which was successful, and in April 2019 resolved to make the off leash area permanent.

The Northern Beaches Sportsgrounds Strategy 2017 identified the need for netball courts for training in Avalon. Council engaged with Pittwater Peninsula Netball Club, Northern Breakers Netball Club, Manly Warringah Netball Association, Avalon Public School, the Avalon Place Plan Working Group, and Avalon Beach SLSC about hard surface netball courts proposed to be located on the western side of Avalon Beach Reserve. Feedback from these stakeholders informed the concept plan for three netball courts and a multi-purpose netball-basketball court in Figure 14-6.

Community engagement activities for the *My Place: Avalon* project in May to July 2018 included various suggestions for additional community uses of Avalon Beach, such as for outdoor cinema.

Community feedback on this Draft Plan of Management will be invited during the public exhibition in mid 2019, and via a public hearing into the proposed recategorisation of part of Avalon Beach Reserve from Park to Sportsground to facilitate construction of the netball/basketball courts.

## 14.2 BASIS FOR MANAGEMENT

### 14.2.1 PLANNING CONTEXT

The key legislative context of Avalon Beach Reserve is shown in **Table 14-2**.

Table 14-2 | Avalon Beach Planning Context

NSW	
Legislation	Local Government Act 1993 Local Government (General) Regulation 2005 Crown Land Management Act 2016 Environmental Planning and Assessment Act 1979 Coastal Management Act 2016 State Environmental Planning Policy (Infrastructure)
Metropolitan	
	A Metropolis of Three Cities: The Greater Sydney Region Plan
Regional	
	North District Plan
Northern Beaches Council	
Land use	Pittwater Local Environmental Plan 2014 Pittwater 21 Development Control Plan: D1 Avalon
Corporate	SHAPE 2028 <ul style="list-style-type: none"> <li>• Delivery Plan</li> <li>• Operational Plan</li> </ul> Policies
Strategic	Pittwater Public Space and Recreation Strategy Northern Beaches Sportsground Strategy 2017 My Place: Avalon – draft Northern Beaches Social Infrastructure Strategy (Draft)
Management /Operational	Pittwater's Ocean Beaches Plan of Management 2005 <b>Chapter 14 Avalon Beach</b>
Supporting documents	Asset management plans Maintenance plans

### 14.2.2 LAND OWNERSHIP

Refer to **Figure 14-2** for Ownership Map.

Council owned land is described as:

- Lot 202 DP 1107408
- Lot 2 DP 607010
- Lot 3 DP 322514 (part of)
- Road Reserve (part of) – Avalon Parade

The sand area of Avalon Beach is vacant Crown Land reserved from sale or lease as contained in Regional Crown Reserve R1012329 (RCR). The RCR also contains the intertidal zone, rock pool (and submerged lands to the three nautical miles State territorial limits).

Figure 14-2 | Land Ownership Map



### 14.2.3 ZONING

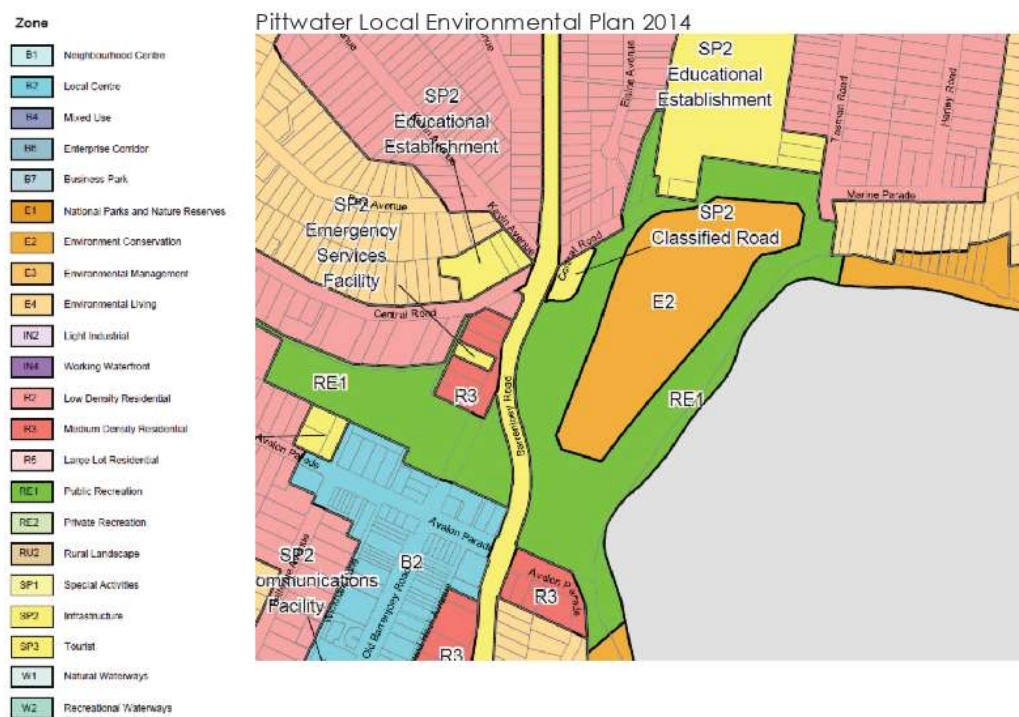
**Figure 14-3** shows the sand area of Avalon Beach and Avalon Beach Reserve are zoned RE1 Public Recreation.

The sand dunes are zoned E2 Environmental Conservation.

A small section of land zoned SP2 Classified Road extends along Barrenjoey Road and Central Road in the northwest corner.

Permissible land uses in each zone are incorporated in **Table 14-4**.

Figure 14-3 | Zoning Map



### 14.2.4 LAND CATEGORISATION

Community and Crown land is required to be categorised under the *Local Government Act 1993*.

Avalon Beach is categorised as Natural Area – Foreshore and Watercourse, General Community Use, Park and Sportsground.

Refer to **Figure 14-4** for the categorisation map.

The guidelines and core objectives for each category are in **Table 14-3**.



Figure 14-4 | Categorisation Map



**CATEGORISATION LEGEND**

	A NATURAL AREA - FORESHORE		GENERAL COMMUNITY USE
	A NATURAL AREA - WATERCOURSE		A PARK
	SPORTS GROUND		

Table 14-3 | Categorisation of Avalon Beach

Category	Guidelines for categorisation	Core objectives for categorisation
<b>Natural Area</b>	If the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the Act.	<ul style="list-style-type: none"> <li>conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area.</li> <li>maintain the land, or that feature or habitat, in its natural state and setting.</li> <li>provide for the restoration and regeneration of the land.</li> <li>provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion.</li> <li>assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the <i>NSW Biodiversity Conservation Act 2016</i> or the <i>Fisheries Management Act 1994</i>.</li> </ul>
Under Section 36(5) of the Act, Natural Areas are required to be further categorised as bushland, wetland, escarpment, watercourse or foreshore based on the dominant character of the natural area.		
<b>Natural Area – Foreshore</b>	Land that is situated on the water's edge and forms a transition zone between the aquatic and terrestrial environment.	<ul style="list-style-type: none"> <li>maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and</li> <li>facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.</li> </ul>
<b>Natural Area – Watercourse</b>	Land which includes: <ul style="list-style-type: none"> <li>(a) any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel that has been artificially improved, or in an artificial channel that has changed the course of the stream of water, and any other stream of water into or from which the stream of water flows, and</li> <li>(b) associated riparian land or vegetation, including land that is protected land for the purposes of the <i>Rivers and Foreshores Improvement Act 1948</i> or State protected land identified in an order under section 7 of the <i>Native Vegetation Conservation Act 1997</i>.</li> </ul>	<ul style="list-style-type: none"> <li>manage watercourses so as to protect the biodiversity and ecological values of the instream environment, particularly in relation to water quality and water flows</li> <li>manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability</li> <li>restore degraded watercourses</li> <li>promote community education, and community access to and use of the watercourse, without compromising the other core objectives of the category.</li> </ul>

Category	Guidelines for categorisation	Core objectives for categorisation
<b>General Community Use</b>	Land that may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public.	<ul style="list-style-type: none"> <li>• promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public in relation to: <ul style="list-style-type: none"> <li>- public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public.</li> <li>- purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).</li> </ul> </li> </ul>
<b>Park</b>	Land that is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.	<ul style="list-style-type: none"> <li>• encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and</li> <li>• provide for passive recreational activities or pastimes and for the casual playing of games, and</li> <li>• improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.</li> </ul>
<b>Sportsground</b>	If the land is used or proposed to be used primarily for active recreation involving organised sports or the playing of outdoor games.	<ul style="list-style-type: none"> <li>• encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games.</li> <li>• ensure that such activities are managed having regard to any adverse impact on nearby residences.</li> </ul>

#### 14.2.5 LEASES, LICENCES AND OTHER ESTATES

##### Current

Use agreements (leases, licences and other estates) for use of Avalon Beach are subject to the requirements of the *Local Government Act 1993* and *Crown Land Management Act 2016* as applicable.

The only lease currently applicable to Avalon Beach is between Council and Surf Life Saving Australia for part of the Avalon Surf Life Saving Club building for a period of 21 years from 19 July 1999 to 18 July 2020.

The western side of the building, which accommodates the Avalon Beach public facilities (showers, change area and toilets) is not subject to the lease.

This Plan of Management authorises renewal of the lease of the surf club building for surf life saving and associated activities beyond the lease expiry in July 2020.

This Plan of Management also authorises a lease with Council with separate arrangements for commercial tenants for suitable use(s) of the building.



### Proposed

This Plan of Management authorises the leasing, licensing or granting of any other estate over Avalon Beach for any commercial activity that results in a diverse range of recreational activities or an activity that is deemed to be of community benefit being provided in the area.

Proposed leases at Avalon Beach include, but do not preclude, any future leases at this location:

- Avalon Beach food & beverage outlets. The proposals:
  - (i) will be consistent with the use of the open space for recreational purposes;
  - (ii) will enhance the public use of the open space; and
  - (iii) be generally in accordance with the concept plans within this Plan of Management.
- Community use. Council may lease, license or hire areas of the SLSC building to community groups and associations. Proposals must be for the community benefit and may take the form of singular or recurrent bookings.

### 14.2.5 PERMISSIBLE USES AND DEVELOPMENTS

The permissible and prohibited activities and developments in the subject reserve area, and the scale and intensity of use and development, are detailed in **Table 14-4** – Avalon Beach Permissible Uses Table.

Such uses are consistent with the applicable land use zoning and category of community land.

Any proposed uses or development and building works that are permitted only with Development Consent (consistent with the uses listed in the Permissible Uses Table) would be subject to the normal Development Application process required by Council in accordance with the *Environmental Planning and Assessment Act 1979*.

Certain activities are subject to Council Permit approvals, in accordance with the relevant Council Policy. A summary of relevant Policy documents and the activities applicable, but not limited to, is detailed below:

#### Northern Beaches Council

- Storage of Watercraft on Council Foreshores
- Asset Management Policy
- Beach Parking Permits
- Waste Minimisation for Functions and Events Approved by Council

#### Pittwater Council

- Council Policy No 24 – Professional Lifeguard Service:
  - Surf Life Saving Activities & Events
- Council Policy No 30 – Dog Control



– dogs are prohibited on beaches

- Council Policy No. 52 – Surf Life Saving Movement
  - Minimum standards for surf club buildings
  - Activities and administrative arrangements
  - Identifying SLS / public buildings on beach reserves
- Council Policy No 88 Beach & Rockpool Management Policy:
  - Beach and Beach Reserves
  - Beach Rockpools and Baths
  - Regulations for the use of Public Bathing Reserves
  - Beach Usage Fees
  - Management of Commercial Activities on Beach Reserves – commercial filming, corporate functions, powerboat racing, fireworks, surf contests
  - Beach Compliance
  - Charges relating to the release of Impounded Equipment
  - Vehicles / Quad Bikes / All Terrain Vehicles on Beach Reserves
- Council Policy No 93 Reserves, Beaches & Headlands Booking Policy:
  - Social, sporting, community and commercial events i.e. weddings, charity events, fireworks
  - Lease Agreements
- Council Policy No 98 Helicopter Landings on Council Owned and Controlled Property:
  - To define conditions for the use of helicopters undertaking civil operations.
  - To control the environmental impacts and public risks associated with helicopters
- Council Policy No 120 – Open Air Concerts
- Council Policy No 129 Signs - Council's Facilities:
  - Determine appropriate signage
  - Manage risks and minimise exposure to public liability
- Council Policy No 157 – Plaques in Parks and Reserves
- Council Policy No 163 – Banners on Public Land
- Council Policy No 169 – Open Air Cinema Events on Council Controlled Land
- Council Policy No 175 - Liquor Licensing Applications
- Council Policy No 176 – Climate Change Policy
- Council Policy No 186 – Risk Management for Coastal Public Buildings and Assets Policy

Table 14-4 | Avalon Beach Permissible Uses Table

Without Development Consent Permissible Uses 'exempt' development (these may require approval under the EPA Act 1979 and/or Council Permit and/or referral to Council)	Permissible Uses Requiring Development Consent Including but not limited to the following:	Prohibited Including but not limited to the following:
<p><u>Advertising</u> (temporary) in accordance with Council's DCP</p> <p><u>Alcohol-free zones</u> requiring consent of Council and consent of relevant committees. Consumption of alcohol in alcohol-free zones (providing appropriate signposting eg. 'the consumption of alcohol is prohibited without the express permission of Northern Beaches Council' is in existence</p> <p><u>Beach and Rockpool Management</u> (in accordance with Council Policy No. 88)</p> <p><u>Booking Policy – Reserves, Beaches &amp; Headlands</u> No. 93. – to allow, but control the impact of group activities.</p> <p><u>Building identification signs</u></p> <p><u>Car parking area (sealed or unsealed)</u> ancillary to use of the community land (in accordance with Masterplan and Management Strategy/Works Program)</p> <p><u>Environmental Protection Works</u></p> <p><u>Feral Animal Control and Eradication</u> (treat as required)</p> <p><u>Filming and Professional Still Photography</u> will be allowed with Council permission and in accordance with Council conditions.</p> <p><u>Fire Hazard Reduction Activities</u> in accordance with legislative</p>	<p><u>Major Works / Permanent Structures</u> – generally in accordance with Masterplan and Management Strategy, including but not limited to:</p> <ul style="list-style-type: none"> <li>Major buildings / structures</li> <li>Provision of food and beverage outlets including ancillary support facilities</li> <li>Telecommunications / mobile telephone transmission facility or tower</li> </ul> <p><u>Recreation areas</u></p> <p><u>Recreation facilities (outdoor)</u></p> <p><u>Restaurants or cafes</u></p> <p><u>Signage</u></p> <p><u>Take away food and drink premises</u></p> <p><u>Temporary Activities</u></p> <p><u>Water recreation structures</u> <u>Certain activities</u> i.e. surf club</p>	<p>Any purpose other than a purpose for which development may be carried out without development consent or only with development consent.</p> <p>Development and temporary activities or events, leases, licenses and other estates not consistent with the Local Government Act core objectives for (where applicable):</p> <ul style="list-style-type: none"> <li>natural area</li> <li>park</li> <li>general community use</li> <li>sportsground</li> </ul> <p>or Northern Beaches Council's goals for this reserve</p> <p>Prohibited Activities:</p> <ul style="list-style-type: none"> <li>Advertising (permanent)</li> <li>Agriculture</li> <li>Alcohol consumption</li> </ul>

Without Development Consent Permissible Uses 'exempt' development (these may require approval under the EPA Act 1979 and/or Council Permit and/or referral to Council)	Permissible Uses Requiring Development Consent Including but not limited to the following:	Prohibited Including but not limited to the following:
<p>requirements.</p> <p><u>Food Premises</u> (in accordance with Council Policy No 29).</p> <p><u>Helicopter landings</u> if consistent with the core objectives of the park, for emergency purposes and/or with the approval of the Northern Beaches Council Chief Executive Officer (in accordance with Council Policy No 98)</p> <p><u>Horticulture</u></p> <p><u>Lease Agreements</u></p> <p><u>Liquor Licensing Applications</u> (in accordance with Council Policy 175).</p> <p><u>Maintenance / minor works</u> – in accordance with the Masterplan &amp; Management Strategy / Works Program, including but limited to the following:</p> <ul style="list-style-type: none"> <li>• bush regeneration and land / habitat restoration works (including temporary access and storage of materials for work, minor excavation &amp; levelling, grading, installation of protective fencing and weed removal)</li> <li>• children's playground equipment and structures dune stabilisation and foreshore protection measures</li> <li>• earthworks to construct structures (including filling, levelling, grading and topdressing)</li> <li>• fencing including security, childproof, protective and temporary fencing</li> <li>• multi-use pathways and tracks (other than for motor vehicles) footpaths, cyclepaths, boardwalks, minor footbridges, steps, ramps land restoration works, including mounding</li> </ul>	<p>events and competitive ocean swims are subject to Council approval and Permits. A D.A is required when the:</p> <ul style="list-style-type: none"> <li>• number of participants and / or spectators on any one-day of an event exceeds 2000;</li> <li>• activities occur outside the period of 6.30am to 11.30pm; and</li> <li>• activities or temporary facilities occur over a total of more than 14 continuous days</li> </ul>	<p>between 8pm and 8am in Avalon Beach Reserve and Des Creagh Reserve.</p> <p>Part of Avalon Beach Reserve is contained within Alcohol Free Zones. See Appendix 1.</p> <p>Note: The building occupied by Avalon Beach Surf Life Saving Club is excluded from the Alcohol Prohibited Area.</p> <ul style="list-style-type: none"> <li>• Animals on the beach, except Guide Dogs for the visually impaired</li> <li>• Domestic drainage outlets</li> <li>• Extractive industries (excepting fishing with permit)</li> <li>• Gaming</li> <li>• Obstructing access or leaving goods in dangerous condition</li> <li>• Private alienation or encroachment onto the reserve</li> <li>• Private vehicular access to</li> </ul>

<b>Without Development Consent</b> Permissible Uses 'exempt' development (these may require approval under the EPA Act 1979 and/or Council Permit and/or referral to Council)	<b>Permissible Uses Requiring Development Consent</b> Including but not limited to the following:	<b>Prohibited</b> Including but not limited to the following:
<ul style="list-style-type: none"> <li>landscaping works, including garden beds, laying turf and re-turfing</li> <li>lighting of reserve, including floodlighting of beach areas for beach related activities</li> <li>drainage, stormwater, erosion and sediment control works</li> <li>park furniture i.e. seating, bins, shade structures, outdoor showers and shelters</li> <li>viewing platforms / decks</li> </ul> <p><u>Overflow vehicle parking</u> on a temporary basis for special events, large film shoots, etc.</p> <p><u>Professional Lifeguard Service</u> No 24.</p> <p><u>Public art</u></p> <p><u>Recreational equipment hire</u> eg. Bicycles, non-powered watercraft, umbrellas, banana chairs, locker storage equipment, etc.</p> <p><u>Temporary activities</u> require a casual booking or permit from Council, or a licence under the Local Government Act 1993 and Crown Lands Management Act 2016. Note: certain activities i.e. surf club events and competitive ocean swims may be subject to relevant authority approvals.</p> <p><u>Council Permit</u> approval subject to temporary activities satisfying all of the following criteria:</p> <ul style="list-style-type: none"> <li>number of participants and / or spectators on any one-day of an event does not exceed 2,000;</li> <li>activities do not occur outside the period of 6.30am to 11.30pm; and</li> </ul>		<p>adjoining lands</p> <ul style="list-style-type: none"> <li>Recreational motor vehicles, including four-wheel driving, motorbike or trail bike riding, or similar, other than use for surf life saving and filming on a short term basis (in accordance with Council Policy No 88)</li> <li>Residential</li> <li>Storage of watercraft or equipment below Mean High Water Mark (MHW/M)</li> <li>Unauthorised dumping of refuse including building materials, soil, fill, garden wastes and the like (other than importing of fill for permitted works)</li> <li>Vegetation removal not in accordance with Council's Tree Preservation and Management Order, or this Plan of Management.</li> </ul>



<b>Without Development Consent</b> Permissible Uses 'exempt' development (these may require approval under the EPA Act 1979 and/or Council Permit and/or referral to Council)	<b>Permissible Uses Requiring Development Consent</b> Including but not limited to the following:	<b>Prohibited</b> Including but not limited to the following:
<ul style="list-style-type: none"> <li>activities or temporary facilities do not occur over a total of more than 14 continuous days</li> </ul> <p><u>Tourism in Pittwater</u> (in accordance with Council Policy No. 21).</p> <p><u>Pay Parking Facilities</u> (in accordance with Council Policy No 18). This Plan of Management authorises the charging of parking fees in accordance with Council's Beach Parking Permit Policy (as determined by Council) by automated ticketed parking systems.</p> <p><u>Risk Management for Coastal Public Buildings Assets in Pittwater</u> (in accordance with Policy No 186)</p> <p><u>Signage</u> – compliance, directional, interpretive, identification and safety (in accordance with Council Signs – Council Facilities Policy No. 129)</p> <p><u>Significant Tree Policy</u> No 118 – to protect large amenity trees with visual significance (such as the Norfolk Island Pine trees during construction works).</p> <p><u>Temporary Storage on Council Land</u> (in accordance with Council Policy No 84).</p> <p><u>Utility Installations</u></p> <p><u>Urban Stormwater</u> – Integrated Policy (in accordance with Council Policy No 69)</p> <p><u>Vehicular access</u> subject to Council approval ( in accordance with Council Policy No 88)</p>		

Without Development Consent Permissible Uses 'exempt' development (these may require approval under the EPA Act 1979 and/or Council Permit and/or referral to Council)	Permissible Uses Requiring Development Consent Including but not limited to the following:	Prohibited Including but not limited to the following:
<u>Reserves, Beaches and Headlands Booking Policy</u> (in accordance with Council Policy No 93)  <u>Exempt Development</u> Only if, but limited to development that: <ul style="list-style-type: none"> <li>• is of minimal environmental impact complies with Pittwater LEP 2014 and Pittwater DCP 2014</li> <li>• does not cause interference with the amenity of the neighbourhood i.e. noise, vibration, smell, fumes, smoke, waste products, grit or oil, or otherwise</li> <li>• does not restrict any vehicular (mobility vehicles only) or pedestrian access to or from the site.</li> </ul>		

## 14.3 ACTION PLAN FOR AVALON BEACH

### 14.3.1 MASTERPLAN

The attached Masterplan (refer **Figure 14-5**) for Avalon Beach was prepared in 2013 to illustrate the works and improvements to the beach and surrounds that are required to address key management issues and objectives. Some proposed works have been completed since that time. Remaining specific improvement works have been described in greater detail and are listed in the Action Plan in **Table 14-5**.

master plan





### 14.3.2 ACTION PLAN

**Table 14-5** below sets out desired actions to commence and complete desired works at Avalon Beach. It should be noted that the commencement and completion of works identified in the master plan are dependent on Council resources and funding.

Details about key actions listed below are in Section 14.3.3.

Priority:

High	1-2 years
Medium	3-4 years
Low	5 years +
Ongoing	as required

Table 14-5 | Avalon Beach Works Action Plan

Area	Actions	Priority	Respons- ibility	Performance targets	Method of measurement
<b>1 North Avalon amenities building</b>	Refurbish the North Avalon amenities building.	Medium	Transport and Assets	Refurbishment complete	Building report
	Undertake general maintenance of the amenities building.	Ongoing	Transport and Assets	Building standards met	Asset inspections
<b>2 Northern carpark and beach access</b>	Undertake general improvements of the car park – line marking, road surface repair (reseal).	Ongoing	Transport and Assets	Efficient parking	Inspections
	Install a picnic table on the grassed terraces.	High	Transport and Assets	Picnic table installed	Works program
	Install stone steps at the lower northern beach access.	Medium	Transport and Assets	Stone steps installed	Positive feedback from beach users
	Incorporate a small viewing platform and seating.	Low	Transport and Assets	Viewing platform and seating installed	Works program
<b>3 Des Creagh Reserve</b>	Plant shade trees i.e. <i>Banksia integrifolia</i> (10-15no).	High	Transport and Assets	Shade trees planted and thriving	Inspections
	Install new picnic furniture and supplementary reserve planting (shade trees).	High	Transport and Assets	Picnic area installed. Increase in picnicking in the reserve.	Observations
	Consider installing a small playground in the longer term.	Low	Transport and Assets	Decision made about installing a playground	Works program
<b>4 Car park</b>	Rejuvenate the existing carpark planting beds.	Low	Transport and Assets	Improved appearance and function of carpark planting beds	Observations
	Undertake general improvements of the car park – line marking /road	Low	Transport and Assets	Efficient parking	Inspections

Area	Actions	Priority	Respons- ibility	Performance targets	Method of measurement
	surface repair (reseal).				
<b>5 Pathway network</b>	Install lighting along paths (approx 5no)	High	Transport and Assets	Increase in actual and perceived safety of path users	Feedback from reserve users
	Re-grade and re-turf adjacent to the Sydney Water pumping station, and plant new trees.	Medium	Transport and Assets	Landscaping complete	Observations Work program
	Investigate extending the Yellow Brick Road, perhaps as part of the creek-line corridor.	Medium	Transport and Assets	Community support	Community engagement
<b>6 Avalon Dunes</b>	Prepare a works program for the dune system and surrounds.	High	Environment and Sustainability	Works program complete	Works program implemented
	Install interpretive signage where needed to discourage people from walking on the plants. Integrate signage into existing elements rather than using dominate signs on posts where possible.	Medium	Environment and Sustainability	Signage installed. Reduction in trampling of vegetation.	Photographs over time
	Stabilise the sand dune adjoining Des Creagh Reserve, re-fence the dune, and stabilise the main track leading to the beach.	Medium	Environment and Sustainability	Dune and track stable over time	Dune monitoring
	Revegetate the dune edge in the vicinity of the Central Reserve (currently vegetation in this area is over-mature).	Medium	Environment and Sustainability	Revegetation complete.	Vegetation monitoring
	Restore and expand the extent of rear dune vegetation adjacent to Barrenjoey Montessori School.	Medium	Environment and Sustainability	Increase in dune vegetation	Photographs, aerial photos
	Maintain the main access tracks through the dunes, but close the middle access track through the dunes.	Medium	Environment and Sustainability	Middle access track closed	Observation
	Close two tracks and retain one of the three tracks at the northern end of the beach.	Medium	Environment and Sustainability	Two tracks at the northern end of the beach closed.	Observation
	Establish a landscape 'buffer' of local coastal native plant species to north, west and southern	Medium	Environment and Sustainability	Increase in native planting.	Observation, Dunecare reports

Area	Actions	Priority	Respons- ibility	Performance targets	Method of measurement
	interfaces. Edge treatment to reduce weed encroachment from managed amenity areas.			Reduction in extent of weeds.	
	Build a viewing deck in an area of the dunes for SLSC members and lifeguards to view the beach; and provide interpretative signage for dunes.	Medium	Transport and Assets	Viewing deck constructed	Works program. Positive feedback from SLSC
	Promote communication and a coordinated approach between the Friends of Avalon Dunes, contractors and Council.	Ongoing	Environment and Sustainability	Satisfaction of all relevant parties with dune actions	Dune works program
	Undertake maintenance of dunes, including fencing, weed treatment, and supplementary planting of local coastal vegetation.	Ongoing	Environment and Sustainability	Dune maintenance according to dune works program	Dune works program
	Remove and treat weed species in accordance with best practice.	Ongoing	Environment and Sustainability	Reduction in extent of weeds	Photographs
	Replace the fencing around the perimeter of the dunes.	Ongoing	Environment and Sustainability	Intact fencing on perimeter of dunes	Observations
<b>7 Careel Creek</b>	Replace the steel footbridge.	High	Transport and Assets	New footbridge in place	Observations
	Construct a new boardwalk /bridge over Careel Creek and paths linking the eastern and western sections of sports courts.	High	Transport and Assets	New bridge and paths constructed	Observations
	Restore / plant the Careel Creek riparian corridor.	Medium	Environment and Sustainability	Increase in riparian vegetation cover	Observation, vegetation surveys
	Investigate 'naturalisation' of the concrete channel. Prepare feasibility study.	Low	Environment and Sustainability	Investigation complete and decision made	Report to Council
	Undertake general maintenance of footbridges.	Ongoing	Transport and Assets	Footbridges meet safety requirements and are fit for purpose	Asset condition assessment
	Undertake general maintenance, including treatment of creek line gross pollutant traps.	Ongoing	Transport and Assets	Gross pollutant traps cleared as required	Inspections after heavy rain



Area	Actions	Priority	Respons- ibility	Performance targets	Method of measurement
<b>8 Western Reserve area</b>	Construct two hard surface netball courts (30.5 x 15.25 metres)	High	Transport and Assets	Netball courts constructed	Works program
	Install floodlighting to netball court areas to Australian Standards	High	Transport and Assets	Lighting meets Australian Standards	Lighting measurements
	Install custom shelter (8 x 6 metres) and seating area	High	Transport and Assets	Shelter and seating installed	Observations
	Plant native trees with low grasses and groundcovers along Barrenjoey Road.	High	Transport and Assets	Planting completed and thriving	Inspections
	Install new seating and a drinking fountain at the off leash dog area.	Medium	Transport and Assets	Seating and drinking fountain installed	Positive feedback from dog owners
	Undertake additional landscaping at the off leash dog area.	Medium	Transport and Assets	Landscaping complete	Observations
<b>9 Skate-board park</b>	Undertake refurbishment of the skate park with new seating, vegetation enhancement and fencing.	Medium	Transport and Assets	Refurbishment complete.	Positive feedback from skate park users
<b>10 Central Reserve</b>	Construct one hard surface netball court and one hard surface multi-court (30.5 x 15.25 metres)	High	Transport and Assets	Courts constructed	Works program
	Install floodlighting to court areas to Australian Standards	High	Transport and Assets	Lighting meets Australian Standards	Lighting measurements
	Install a new drinking fountain and landscaping at the entry to the court area.	High	Transport and Assets	Entry treatments complete	Works program
	Landscape along Careel Creek including weed removal; replanting with native tree, groundcover and grass species; and protection fencing.	High	Transport and Assets	Creek landscaping complete	Positive feedback from users
	Implement changes to the parking layout including one-way access road with turning circle at the northern end, parallel parking, definition of the access road, and undertake landscaping (hard surface treatment).	Medium	Transport and Assets	Efficient parking. Maximum dune vegetation retained.	Observations, Parking surveys
	Install overhead lighting to illuminate the access drive and footpaths along the entire length of the road.	Medium	Transport and Assets	Lighting installed	Works program
	Plant shade trees along the shared path (approx 10-15no).	Medium	Transport and Assets	Trees planted and thriving	Observations



Area	Actions	Priority	Respons- ibility	Performance targets	Method of measurement
<b>11 Car park reserve area</b>	General improvements – regrade and turf	Low	Transport and Assets	Improved carrying capacity	Observation of use
	Install new picnic tables (approx 3no).	Low	Transport and Assets	Increased use of the area	Observations
	Undertake new shade tree planting (approx. 10no)	Low	Transport and Assets	Increased shade cover	Observations
<b>12 Southern carpark</b>	Improve entry off Barrenjoey Road (i.e. widening/'splitter island')	High	Transport and Assets	Reduction in traffic/pedestrian conflict	Observations, reports
	Review traffic circulation - two-way vehicular access driveway with turning circle at the northern section to alleviate current traffic congestion.	Medium	Transport and Assets	Efficient vehicle circulation and parking	Traffic surveys
	Formalise parking bays (mix of perpendicular and parallel parking), type dependent on location.	Medium	Transport and Assets	Efficient vehicle parking	Observations
	Undertake general improvements to the upper carpark – line marking / road surface repair (reseal)	Medium	Transport and Assets	Efficient vehicle parking	Observations
	Replace 'Koppers log' barrier fence – wheel stops / timber bollards where required	Medium	Transport and Assets	Efficient vehicle parking	Observations
	Integrate existing lighting into the new design.	Medium	Transport and Assets	Safety in the carpark	Reports of safety breaches
	Re-paint feature bollards	Medium	Community and Belonging	Public art feature	Positive feedback from reserve users
	Undertake landscaping	Low	Transport and Assets	Improved aesthetics and amenity	Observations
<b>13 Avalon Surf Life Saving Club</b>	Manage the building in accordance with the Avalon SLSC Coastal Protection Works Management Plan (Appendix 2).	Ongoing	Transport and Assets	No damage to building or beach	Asset inspections
	Undertake general maintenance of the surf club building	Ongoing	Transport and Assets	Building meets standards	Asset inspections
<b>14 Avalon Beach Reserve</b>	Provide an access pathway link from Barrenjoey Road (bus stop area) to open space, the beachfront and the SLSC.	High	Transport and Assets	Reduction in pedestrian/vehicle conflict	Observations
	Upgrade existing park furniture, seating, amphitheatre, and provide picnic	Medium	Transport and Assets	Increased user numbers	Observations

Area	Actions	Priority	Respons- ibility	Performance targets	Method of measurement
	shelter and park furniture. Upgrade the playground area.	Medium	Transport and Assets	Increased range of play experiences.	Equipment choice,
	Provide seating for carers supervising children, and shade.	Medium	Transport and Assets	Increase in satisfaction and comfort	Positive feedback from carers
<b>15 Corner Barrenjoey Road and Avalon Parade</b>	Implement the reserve name sign and landscaping at the corner of Barrenjoey Road and Avalon Parade.	Medium	Transport and Assets	Improved visual amenity and wayfinding	Positive feedback from reserve users
	New mass planting and shade trees (native species)	Medium	Transport and Assets	Improved visual amenity. Increased recreational use of this area	Observations. Positive feedback from reserve users
	Install additional park furniture and signage, and landscape.	Medium	Transport and Assets	Increased recreational use of this area	Observations
	Undertake general improvements including removing old/dead vegetation (i.e. cypress trees).	Ongoing	Transport and Assets	Improved visual amenity. Increased recreational use of this area	Observations
<b>16 South Avalon Beach</b>	Establish dune protection to supplement existing rock boulders, including 'cut-throughs' and stair access at the shower.	Medium	Transport and Assets	Protection of the dune	Monitoring of dune
	Relocate bins from under existing trees and replace with a seat.	Medium	Transport and Assets	Increase in informal recreation use	Observations
	Install an additional picnic table and concrete pad.	Medium	Transport and Assets	Increase in informal recreation use	Observations
<b>17 Avalon Rock Pool</b>	Install a new outdoor shower.	Low	Transport and Assets	Increase in shower facilities	Positive feedback from rock pool users
	Undertake general maintenance including platform edge re-surfacing.	Ongoing	Transport and Assets	Improved safety, reduction on slips and falls	Accident reports
<b>18 Headland</b>	Undertake cliff face stabilisation works i.e. underpinning of rock outcrops (in accordance with geotechnical recommendations).	High	Transport and Assets	Reduced risk of rock falls	Geotechnical reports
	Install low hardwood barrier fencing along the cliff edge.	Low	Transport and Assets	Improved safety of reserve users	Accident reports
	Monitor cliff line instabilities and risk.	Ongoing	Transport and Assets	Reduced risk of rock falls	Geotechnical reports

### 14.3.3 KEY PROJECTS

#### Area 6 - Avalon Dunes

The dunes are maintained by Council through bush regeneration contractors. Between 1989 and 2007, a group of volunteers, now called the Friends of Avalon Dunes Dunecare group, undertook the restoration of the dunes. The Friends have recently recommenced work. Their aim is to stabilise, weed and regenerate / revegetate with local dune plant species to increase biodiversity and ecosystem resilience.

Considering the history of the site, the technical skills of the Friends and the good work that has been achieved to date, the most important management strategy is to promote good communication and a well coordinated approach between the Friends, contractors and Council, particularly in relation to the weeds - where, what, why and how the various teams work throughout the dunes.

Apart from weeds, the other most concerning issue is damage by youth who build bases / camps and drag sofas into the dunes. This is a cultural problem that could be addressed in several ways, such as through the promotion of organised sport and recreational activities, youth education through interpretative signage and school visits, and young people being encouraged to form a volunteer working group for dune restoration work. A designated youth area at the edge of the dunes could also be investigated in the longer term. This could provide Council with a negotiating tool in order to contain and monitor activities (This option is not supported by the Friends).

#### Areas 7, 8 and 10 – Careel Creek, Western Reserve Area and Central Reserve

Council has identified a gap in fit-for purpose netball training courts in the northern peninsula. The Northern Beaches Sportsfield Strategy recommended filling this service gap with the development of hardcourts and sportsfield lighting to Australian Standards in Avalon.

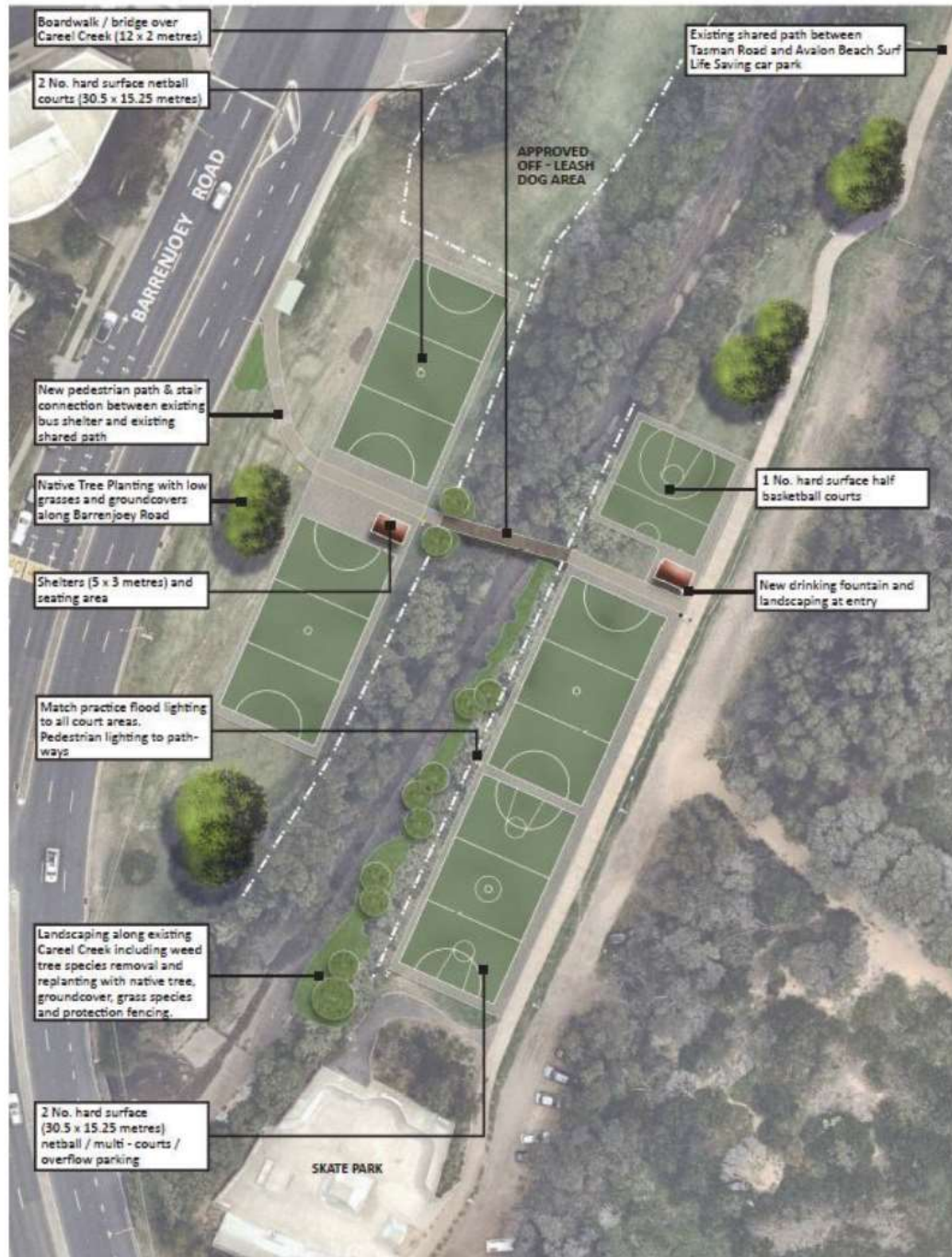
Consultation with stakeholders, including Pittwater Peninsula and Newport Breakers netball clubs with over 1,000 members combined, identified the preferred location for the courts as the grassed area between Barrenjoey Road and the dunes in Avalon Beach Reserve, bordered by the fenced off leash dog area to the north.

Refer to the concept plan in **Figure 14-6**. Three netball courts, and one multi-purpose netball-basketball court, are proposed to be constructed. A bridge will be constructed across Careel Creek to link the two sets of courts. The eastern courts would be built to carpark standard to accommodate overflow parking. The courts will be green in colour to better blend into the surrounding environment. The courts would be lit to Australian Standard for match practice and amateur competition.

Council was successful in obtaining \$562,000 in grants from the NSW Government to fund the courts. A condition of the grant is that the project is completed by 31 December 2019.



Table 14-6 | Avalon Beach Netball Courts Concept Plan







### Area 10 – Central Reserve

Overflow parking is currently available towards the north of the new formalised access road. Overflow parking is necessary during peak periods, particularly during Nipper events, carnivals and surf competitions. Stage 2 proposes to formalise this area using road base to provide a low-key functional surface. The access road is single lane with parallel parking for minimal impact on the adjoining sand dunes. (Refer to **Figure 14-7**).

Table 14-7 | Overflow Parking – proposed works Stage 2





**Areas 14 and 15 – Avalon Beach Reserve and Corner Barrenjoey Road and Avalon Parade**

Avalon Beach Reserve will be landscaped as sensitively as possible to enable the natural landscape to dominate. Principles are:

- the proposed recreational facilities – playground and picnic area, will be contained within the small section of the reserve as shown in the Masterplan (Refer to **Figure 14-9**);
- the majority of the Reserve will be green, open space;
- vegetation will be locally native species where possible;
- plantings will consider coastal views and security (open enough to prevent people hiding behind bushes; and
- a sign with the reserve name will be considered. (Refer to **Figure 14-10**).



**EXISTING CARPARK**

carpark entry exit

**NEW ACCESS STAIRS/GARDEN**

**NEW ACCESS PATHWAY**

**EXISTING PATHWAY (near 'Carpark')**

**NEW TIMBER ACCESS PATHWAY**

**NEW ACCESS PATHWAY**  
- pedestrian and bicycle  
TO PROVIDE PUBLIC LINK TO PARK AND BEACH

**EXISTING PATHWAY**

**UPGRADE CHILDREN'S PLAYGROUND**  
- resources  
- recycled timber decking  
- planting

**EARTHWORKS (LAND RE-SHAPING)**

**NEW BARRIER-FREE ACCESS**

**EXISTING BUS SHELTERS**

**REMOVE EXISTING SIGNS**

**EXISTING TREES PROTECTED**

**EXISTING TREES PROTECTED**

**PROVIDE RECREATIONAL OPEN SPACE OPPORTUNITY**  
- including shelter structure with tables and seating  
- BBQs  
- area can be used for picnic, social gathering  
- enjoy ocean views of regionally popular beach

**EARTHWORKS (BATTER AND LAND RE-SHAPING)**

**EARTHWORKS (LAND RE-SHAPING TO REDUCE EROSION)**

**EXISTING PATHWAY TO BACKBUSH**

**PUBLIC SEATING AREA**  
- benches and/or concrete set into landscape

**DESIGN PRINCIPLES**

**1. Improve existing recreational and open space amenity, including:**  
- upgrade existing playground to re-surfacing to reduce risk of injury  
- add timber seating and seating adjacent to playground to provide close parental supervision of early age children  
- reduce surface erosion by land re-shaping to create usable spaces

**2. Provide new recreational amenity to the open space, including:**  
- access pathway, picnic/garden area and cycle to the Anselm Rd and Anselm Town Centre to the open space and beachfront  
- land re-shaping to create areas for picnic and social gathering  
- land re-shaping to create large areas of seating spilt onto the landscape to provide opportunities for sunset and beachfront viewing, and viewing to playground

**EXISTING OPEN SPACE (UNDEVELOPED PARK)**

**EXISTING BUS SHELTER AND PROPOSED NEW PROPOSED SEATING IN SHUTTER HOUSE**

**PROPOSED SEATING AREA OVERLOOKING PLAYGROUND, BEACHFRONT AND OCEAN**

**Barrenjoey Road**

**Parade**

**Signage to corner**

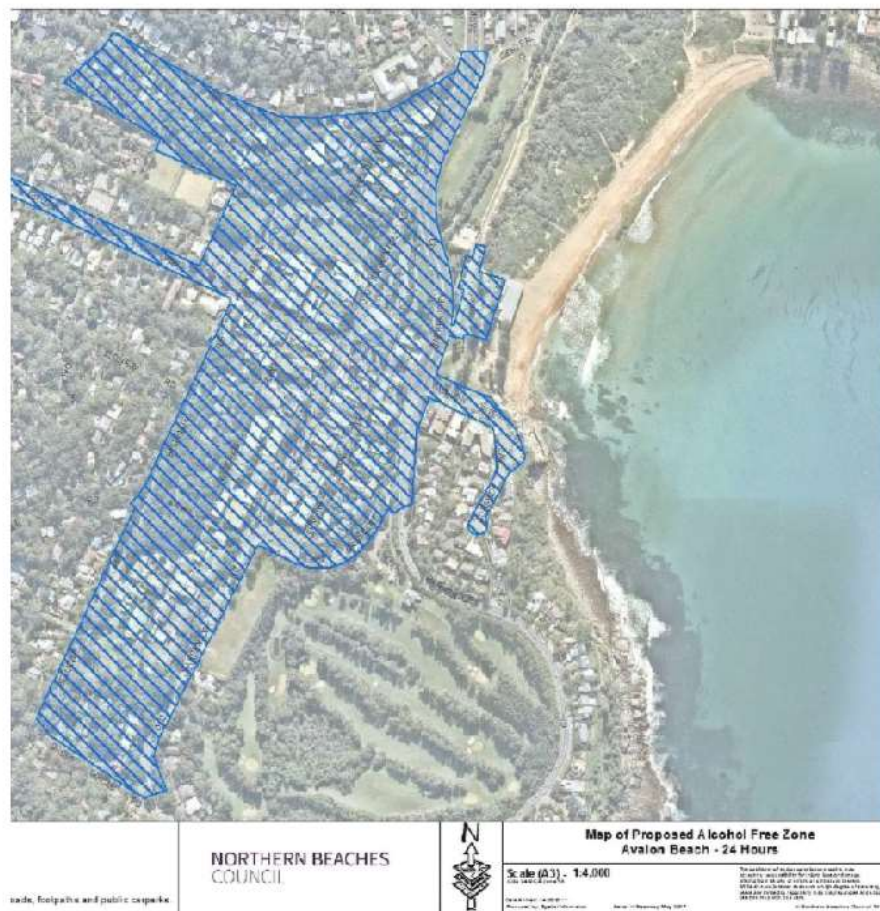
**Existing Opportunity - Existing Playground Anselm Town Centre**

**DESIGN PRINCIPLES**

Improve the quality of the visual and physical amenity along Barrenjoey Road, including:

- provide sandstone low wall, feature stone elements and signage as a key physical and visual feature
- additional walling to increase pedestrian area at corner
- provide mass planting in association with low wall to upgrade landscape amenity
- remove existing vegetation to embankment at corner to allow for 'signage' of views through to the Reserve and open space

## Appendix 1. Alcohol Free Zones in Avalon Beach Reserve and Surrounds



# Outdoor Dining and Footpath Merchandise Policy

This policy aims to support a vibrant streetscape that is safe and welcoming, attracting tourists and locals to visit, enjoy and return. The appropriate placement and regulation of outdoor dining furniture and display of footpath merchandise that ensures safe and equitable access to the footpath can be achieved whilst supporting local businesses.

## Principles

- Contributing to a vibrant and welcoming street environment while supporting local economic development.
- Maintaining the pedestrian thoroughfare as the primary purpose of the footpath and promoting accessibility by maintaining a consistent and predictable clear path of travel for all users.
- Ensuring street furniture, display stands, racks or containers are of a suitable standard and visually pleasing, contributing to the creation of an appealing streetscape
- Fostering neighbourhood amenity through minimising additional noise, visual and other adverse impacts.
- Encouraging the use of sustainable materials and eco-friendly management practices.
- Minimising public liability risk through the issue of approvals considered against the Outdoor Dining and Footpath Merchandise Guide.
- Monitoring compliance with approvals and undertaking enforcement action when appropriate.
- Charging a fee for the use of the footpath as set out in Council's Fee and Charges.

## Approvals

In order for a premises to have outdoor dining or merchandise displays on the footpath, NSW Government legislation sets out that the following approvals are required:

- All outdoor dining on the footpath requires approval under the Roads Act 1993.
- All footpath merchandise displays on the footpath requires approval under the Local Government Act 1993.
- Outdoor dining on community lands such as a park or reserve, or Crown Land for which Council manages, requires approval under the Local Government Act 1993

Any new operator will be required to apply for a transfer of the Approval.

If you are not sure which approvals you need, please talk to Council at one of our customer service centres, or call customer services on 1300 434 434.

## Scope and application

This policy applies to all employees, agents, officers, councillors and committee members of Northern Beaches Council. This policy is executed through the Outdoor Dining and Footpath Merchandise Guide.



## References and related documents

Laws and Standards	Roads Act 1993
	Local government Act 1993
	Environmental Planning & Assessment Act 2017 (as amended)
	State Environmental Planning Policy (Exempt & Complying Development Codes) 2008
	Building Code of Australia Crown Lands Act
	Food Act 2003
	Australia New Zealand Food Standards Code
Policies, procedures and guidelines	Outdoor Dining and Footpath Merchandise Guide

## Definitions

Clear path of travel	The area of the footpath maintained for safe and equitable pedestrian circulation which is free from obstructions and assists in wayfinding and navigation.
Outdoor dining	Dining on the public footpath which is associated with an approved restaurant, cafe or similar.
Footpath merchandise	The display of goods on the public footpath associated with an adjacent business premises.
Public footpath	The part of a road as is set aside or formed as a path or way for pedestrian traffic (whether or not it may also be used by bicycle traffic).
Street furniture	Removable tables and chairs or other approved furniture owned by restaurants, cafes or similar for use in the outdoor dining area.
Display stands, racks and containers	Removable items owned by the business premises used in the footpath merchandise display area.

Responsible Officer  
Executive Manager Property  
Review Date  
March 2023

## Revision History

Revision	Date	Status	TRIM Ref
1		First draft Outdoor Dining and Footpath Merchandise policy	2018/692377
2			

# Outdoor Dining and Footpath Merchandise Guide



## Outdoor Dining and Footpath Merchandise Guide

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## Introduction

The Outdoor Dining and Footpath Merchandise Guide supports and provides information for applicants seeking outdoor dining and merchandising approvals under the Outdoor Dining and Footpath Merchandise Policy. The guide aims to support a vibrant streetscape that is safe and welcoming, attracting tourists and locals to visit, enjoy and return. The appropriate placement and regulation of outdoor dining furniture and footpath merchandise displays ensures safe and equitable access to the footpath can be achieved whilst supporting local businesses.

This document applies to all land within the Northern Beaches Council local government area with the definition of 'public road' under the Roads Act 1993. It also applies to designated pedestrian streets.

## Principles

- Contributing to a vibrant and welcoming street environment while supporting local economic development.
- Maintaining the pedestrian thoroughfare as the primary purpose of the footpath and promoting accessibility by maintaining a consistent and predictable clear path of travel for all users.
- Ensuring furniture, display stands, racks or containers are of a suitable standard and visually pleasing, contributing to the creation of an appealing streetscape
- Fostering neighbourhood amenity through minimising additional noise, visual and other adverse impacts.
- Encouraging the use of sustainable materials and eco-friendly management practices.
- Minimising public liability risk through the issue of approvals considered against the Outdoor Dining and Footpath Merchandise Guide.
- Monitoring compliance with approvals and undertaking enforcement action when appropriate.
- Charging a fee for the use of the footpath as set out in Council's Fee and Charges.

## Approvals

In order for a premises to have outdoor dining or merchandise displays on the footpath, NSW Government legislation sets out that the following approvals are required:

- All outdoor dining on the footpath requires approval under the Roads Act 1993.
- All footpath merchandise displays on the footpath requires approval under the Local Government Act 1993.
- Outdoor dining on community land such as a park or reserve, or Crown Land for which Council manages, requires approval under the Local Government Act 1993
- Outdoor dining that is not exempt development under the provisions of SEPP (Exempt & Complying Development) 2008 or Warringah LEP 2011 (Schedule 2) will require development consent under the EPA Act 1979 (as amended)

Any new operator will be required to apply for a transfer of the Approval.

If you are not sure which approvals you need, please talk to Council at one of our customer service centres, or call customer services on 1300 434 434.



## Section 2 – Outdoor Dining

### 2.1 Application Requirements

#### Eligibility Criteria

In order for a restaurant or café to have outdoor dining on the footpath, the following criteria must be met:

- Must be a lawfully existing food and drink premises (café or restaurant).
- Must be an extension of 'indoor' seating, a business cannot solely rely on outdoor seating on a public footpath.
- Must be temporary and only used during the approved operating hours.
- Must be mindful of other users of the shared space and public infrastructure.
- Must have food preparation, storage and garbage disposal areas that comply with the Food Act 2003, Australian New Zealand Food Standards Code and Australian Standard AS4674.
- Must notify Council by submitting a Food Business Owner Details form with up to date business details.
- Must provide evidence that the food business has sufficient toilets/sanitary facilities that can be accessed by food handlers and patrons.
- Must provide table service or provision for cleaning and servicing.
- Should serve food and drinks in non-disposable crockery and glassware.

#### Preparing the Application

The applicant should provide supporting information along with the application form to allow Council officers to assess the outdoor dining application efficiently and effectively. The required information is as follows:

- A scaled (1:50 or 1:100) detailed plan containing the width of the pavement, the location and layout of the proposed outdoor dining area, including dimensions, the number and location of items such as chairs, tables, umbrellas heaters and the like and the location of any fixed items on the footpath, i.e. electricity meters, bus stops, garbage bins, post office boxes or similar. See example of a detailed plan in Appendix One.
- Details of the all the proposed furniture such as colour photographs, brochures and dimension specifications.
- Proof of a Certificate of Currency (Public Liability Insurance) for a minimum of \$20 million dollars.
- Ensure that the application form is fully completed (available from Council's website) and includes contact details and signatures. An initial application fee (non-refundable) is also required.



## Outdoor Dining Area Location and Size

Outdoor dining areas are to provide a safe and enjoyable dining experience for customers, while keeping footways safe and accessible for all pedestrians.

Outdoor dining is generally considered suitable in the following locations:

- Streets that meet minimum width requirements – see below.
- Pedestrianised streets and laneways closed to vehicular traffic.
- Public squares and plazas.
- Before outdoor dining is approved, Council will assess the location and position of the proposed area according to the following:
  - Maintaining safety and circulation on public footpaths by allowing a minimum width of at least 2 metres of unobstructed footpath. And a minimum of 2.5 metres on a Roads and Maritime Services (RMS) classified road or clearway, subject to RMS approval
  - Allowing enough room for furniture and customers by keeping a minimum area width of 0.6m.
  - Whether the location of the proposed outdoor dining maintains a consistent, clear and predictable path of travel for all pedestrians. A predictable path of travel is one that can be easily identified based on local knowledge or environmental cues.
- Whether unobstructed access to adjoining businesses is maintained.
- Provision of clear circulation space across the footpath for people accessing parked cars, loading zones, public transport and road crossing points.
- The need to provide clear views and sightlines near driveways and intersections (as shown in the example plan in Appendix One).
- The need to provide a clear visual pathway in areas where this is of designated importance.
- The closeness of the proposed outdoor dining to bus stops and taxi stands. All outdoor furniture must be a minimum of three (3) metres from bus stops and taxi stands to allow for pedestrian circulation and queueing.
- Whether there is a clear view to the outdoor dining area from inside the restaurant or café to ensure effective monitoring of the space.
- Maintaining a two (2) metre clearance from trees, bus stops and service items such as fire hydrants, drains and the like.
- Consent will generally not be given to kerbside dining due to the potential for conflict between cars and pedestrians. However, where it can be shown that conflict is unlikely due to low traffic speeds or the presence of permanent bollards or similar, assessment on merit may be considered. Consent will not be given for kerbside dining on arterial roads or roads where there is a clearway in force or in areas with nose/tail to kerb or angle parking, unless there are bollards or wheel stops immediately in front of each car space.
- See Appendix two for an example of a site location.

## Outdoor Dining in Adjoining Areas

Outdoor dining areas for a restaurant or café will generally be located immediately outside the premises.

Outdoor dining in front of adjoining premises will only be supported where the landlord and proprietor of the adjoining premises have given written consent, which must be submitted to Council with your application. This approval can be withdrawn by the adjoining landlord or proprietor if they wish to use that area for their own business at a later stage. Any fees charged for additional outdoor dining where the landlord/ proprietor has withdrawn their consent may be eligible for a refund.

## Furniture and Equipment

Outdoor dining areas are to make a positive contribution to the character of the streetscapes. They are to appear as temporary uses of the public domain, not permanent fixtures.

The essential elements of an outdoor dining area are temporary chairs, tables, small barricades (where supported) and umbrellas. Care needs to be taken that streets do not become cluttered and obstructed by the placement of furniture and other items.

Streets that are physically and visually cluttered can make business identification and general way finding more difficult and can detract from the street attractions. Signage, branding and advertising can all add to visual clutter and take away from the positive characteristics of the street.

Outdoor dining areas should relate to and be sympathetic towards and enhance the existing urban character, cultural significance, heritage and street quality. See Appendix three for furniture examples.

Barriers or structures around the area give the appearance that the public space has privatised and become an obstacle to access and movement will generally not be supported. Privatisation of the public space results in reduced accessibility, visibility and safety to the public.

Each restaurant/café is responsible for ensuring customers keep furniture within the boundaries of the approved area. The proprietor must ensure that staff are aware of the conditions and responsibilities of the approval and are not to trade outside their approved area.

All outdoor dining furniture is the responsibility of the restaurant/café owner and must be removed from the footpath outside approved hours of operation.

To ensure best use of the public space Council will stipulate the maximum number of tables and chairs and other furniture during the assessment stage, allowing for access by all users, including wheelchair users and users of mobility frames.

## Tables and chairs

- Should be of a high structural and aesthetic quality, uniform in design and be weatherproof and designed for outdoor use.
- Outdoor dining furniture shall be safe for users, with no sharp edges or hinges that could cause a hazard to users.
- The use of synthetic wicker look, polished aluminium, brushed or stainless steel or sustainable timber from eco-friendly management practices are preferred.
- Should not damage the footpath or Council property

## Umbrellas

Will not be supported in an area has shelter from an awning. Where umbrellas are permitted they should:

- Be a single style (i.e. 1 per table).
- Be square, to take up the least amount of space and not extend outside of the approved area.
- Have a height of at least two (2) metres above ground for pedestrian movement and safety.
- Be of a single solid colour and not white or other light shades, as this discolours too easily.
- Be fabric or matte-finish.
- Be securely anchored.
- Plastic blinds, transparent or rolled down screens from umbrellas are not supported.

## Gas heaters

May be temporarily located within the outdoor dining area and must:

- Be industry approved high- quality gas heaters that meet Australian standards and occupational health and safety requirements.
- Table- top heaters are not supported.
- Be self-contained and free standing.
- Be securely fixed and stable.
- Not be placed where they may pose a safety of fire hazard.
- Have an integrated compliant gas bottle with a safety shut off valve (in case of tipping over) and checked daily.
- Be serviced yearly with service records kept to be produced on demand.
- Must not exceed the maximum of one (1) per table.

## Blinds

Encourage privatisation of the public space by enclosing the area and obstruct the view of the building façade or view pathway and are therefore not supported.

## Barriers

Which enclose the outdoor dining area will only be supported where there is a licence under the Liquor Act 2007 to serve alcohol in the outdoor dining area and the café/restaurant is in a designated Alcohol Free Zone.

Temporary barriers between adjoining areas may be approved on a case by case basis and should:

- Be free standing and removable.
- Have a maximum gap of 150mm between the pavement and the underside of the barrier.
- Not exceed 0.9 metres in height.
- Be a single colour.
- Be compatible with the design of adjacent building frontages and streetscapes.
- No rope or chain barriers are supported.
- The use of weather protection screens is not supported by Council.

## Plants and planter boxes

Are generally not supported but may be considered on a case by case basis.

## Menu Boards

Must be kept to a minimum, must be transportable, and must be kept within the occupied areas at all times during use.

## Advertising

Outdoor furniture, including umbrellas, screens and similar should not display advertisements for third parties. All signage on furniture should be restricted to the business name only and not exceed 30 percent of the total surface area. The Exempt Development provisions of Manly LEP 2013 relating to third party signage are not applicable to movable signage but only signage affixed to the building.

## Dogs

Proprietors should adhere to the NSW Government Office of Local Government guidelines for dogs in outdoor dining areas which state:

- The outdoor dining area must not be enclosed and must be accessible without the requirement to pass through an enclosed area.
- The dog must be on a leash at all times.
- The dog may be provided with drink, but not food.
- The dog must be on the ground at all times.



## 2.2 Operation and Management

### Health and Safety

The outdoor dining area, furniture and other items are to be kept clean, in good order and free from litter and rubbish during the hours of operation.

The proprietor is responsible for the orderly conduct of the business and must ensure that the requirements of the Food Act 2003 and any other applicable legislation are maintained in the serving or display of food at outdoor tables.

The proprietor must ensure that the requirements of the Occupational Health and Safety Act 2000 and subordinate regulations, codes of practice and the like are fully met.

Storage and handling of flammable and combustible liquids will not be permitted within the approved Outdoor Dining Area.

### Environmental Impact

The proprietor will be held responsible for the good conduct of customers and for ensuring that the premises do not give rise to offensive noise as defined in the Protection of the Environment Operations Act 1997. Entertainment and amplified music are not permitted in the outdoor dining area.

Development Consent will be required for the installation of any external lighting. Lighting must be designed and located so that it does not cause a nuisance to neighbouring premises and should comply with the requirements of AS 4282-1997: Control of the obtrusive effects of outdoor lighting.

The proprietor of the restaurant is responsible for maintaining outdoor furniture and ensuring that the furniture is kept neat and tidy whilst in use. All furniture must be removed from the footpath outside the approved hours of operation.

To minimise waste, crockery and glassware should be provided. Disposable items such as plastic, paper or polystyrene cups, containers and straws are not supported as these create litter and have an adverse environmental effect.

The proprietor and staff must keep the outdoor dining area clean and ensure litter is removed promptly from in and around the area and disposed of properly.

### Table Service

Proprietors must supply table service to the outdoor dining area to promote cleanliness and prevent littering.

### Smoking

Smoking is not permitted in outdoor dining areas.

### Alcohol

Approval for outdoor dining areas only authorises the consumption of food and non-alcoholic beverages.

No alcohol can be consumed in the outdoor dining area without a prior liquor licence from Liquor and Gaming NSW. Council will not support an application for Primary Service Authorisation.

The consumption of alcohol in outdoor dining areas will only be supported if licensed and can only be served in conjunction with a meal.

No outdoor dining approval will be granted for the consumption of alcohol only.

## 2.3 General Conditions

### Hours of Operation

The hours of operation of the Outdoor Dining Area shall generally be restricted to the hours of 7am to 10pm Monday to Sunday. If hours of operation have been granted to the premises under a Development Application, they should not exceed the hours of operation stated in the Development Consent for the restaurant.

If no hours are stipulated in the Development Consent the operation of the outdoor dining area shall be in accordance with those set out in SEPP (Exempt & Complying Development Codes) 2008, Schedule 8, part 4, Clause 21 ('the procedure hours').

Where the hours of operation of the restaurant exceed the procedure hours then the hours defined in the SEPP apply to the Outdoor Dining Area.

In specific areas where residents are impacted by the operations of late night activities, Council will determine the hours of operation for the area, taking into account environmental and amenity considerations as well as the merits of each particular application for approval.

### Patron Numbers

As the approval may increase the total patronage of a premises, the total internal and external patron numbers must not exceed that stated in the Development Consent for the restaurant.

Sanitary provisions must also comply with The Building Code of Australia (BCA) Table F2.3 and Table F2.4.

### Limitations

Approvals in respect of premises situated in Sydney Road Plaza and Market Lane may have a restricted use clause which does not allow the use or operation of any otherwise approved Outdoor Dining Area on weekends and public holidays, when the Manly Arts & Craft Market is operating.

### Insurances

The proprietor of the restaurant are to maintain a minimum cover of \$20 million (or such higher amount as the Council/RMS may require from time to time) in respect of any one claim for public and product liability insurance which is extended to cover utilisation of the footpath area, and are required to provide evidence of that cover with their application, and whenever requested by Council. The policy of insurance is to list Council as an interested party under the policy.



The proprietor must keep current throughout the term of any approval granted in respect of an Outdoor Dining Area, a Workers' Compensation Policy in the name of the Proprietor in compliance with the requirements of the New South Wales Workers Compensation Act 1987. The proprietor must provide evidence of that cover whenever requested by Council.

### Term of Approval

In general, the maximum term of an approval in respect of an Outdoor Dining Area shall be three (3) years. Council may approve a shorter period of time where the use of the footpath may have negative impacts on the amenity of the area. Council will consider a longer term in exceptional circumstances. The term of any approval period will be specified by a Condition of Approval.

Any initial approval granted in respect of an Outdoor Dining Area shall be subject to a 6 month trial period. The proprietor might report to Council if any complaints are received during the trial period. A set start and finish date will apply to all approvals.

### Change of Ownership

The approval issued is separate to the ownership of a business conducted on the private property and has no legal attachment to the sale or transfer of ownership of a business. The approval will not automatically be transferred to the new owner. The new owner must submit an application form noting the change of ownership. It is the responsibility of the existing proprietor to include the balance of the remaining approval fee in the sale of the business.

## 2.4 Fees and Bonds

### Application Fee

The Application Fee payable shall be in accordance with the Council's Schedule of Fees and Charges.

### Rental Fees

There is a fee for the use of the public road as an outdoor dining area charged per square metre per annum and is incorporated within the Council's Schedule of Fees and Charges.

### Security Bond

The applicant shall pay a Security Bond prior to the commencement of use of the Outdoor Dining Area. This will be equal to three (3) month's rent or a minimum amount as set out in Council's Schedule of Fees and Charges, whichever is the greater amount. The Security Bond is intended to provide insurance for Council where damage to Council property has occurred, rent for outdoor dining area has not been paid and similar issues.

The Security Bond will be refunded to the proprietor when the Outdoor Dining Approval expires or the proprietor has stated that they wish to cancel it.

### Compliance

Proprietors must supply table service to the outdoor dining area to promote cleanliness and prevent littering.

### Pavement Markers

Pavement markers are stainless steel circular markers that delineate the extent of the permitted outdoor dining area for individual premises.

Pavement markers will be installed when there has been a proven need and shall be purchased from, and installed by Northern Beaches Council at each outer corner of the approved outdoor dining area.

## Section 3 - Footpath Merchandise

### 3.1 Application Requirements

#### Eligibility and Guiding Principles

The display of goods on the footpath is supported in most areas zoned for business usage in order to encourage customers to enter the premises, but not to carry out business or financial transactions. Exclusions may apply, see Appendix 4.

Footpath merchandise displays should enhance local amenity. Display stands must be high- quality, well-maintained and designed to improve street vitality.

The granting of footpath trading approvals, and applications for those approvals, is controlled by the approvals provisions of the Local Government Act 1993 and should adhere to the following:

- The application for approval is to be accompanied by a location plan. The application must clearly explain the proposal proposed use, how any structures or stands are to be built, the type of materials, accurate dimensions and means of securing fixtures.
- Goods shall only project a maximum width of one metre from the front property alignment subject to a minimum footpath width of two (2) metres being maintained for public access.
- Goods shall not extend beyond the side of property alignment.
- Goods shall not obstruct access to the shop or any other premises. Goods shall not create litter or any form of staining or rubbish on the footpath. A security deposit is to be lodged with Council upon application.
- Goods such as liquor, drugs, pharmaceuticals or tobacco shall not be displayed.
- Goods shall be displayed in such a manner that supervision from the shop premises is available.
- Display stands shall be constructed in a workman-like manner, well finished and secure. Materials and finish will be such that it does not deteriorate with sunlight or rain. All edges and corners shall be finished so as not to cause any injury to a passer-by or catch clothing.
- All display stands be custom made for the goods being displayed, (i.e. no packing materials, cardboard boxes, crates or improvised stands permitted).
- All goods shall be displayed on stands, racks or in containers above the level of the footpath. The only goods to be displayed on the ground shall be specifically designed for that purpose. For example large plant containers, outdoor furniture such as table and chairs.
- An essential condition of the approval that goods are to be displayed within in the approved area. If this does not occur then the approval will be cancelled administratively.
- Display stands, racks or containers will be removed from the footpath when the business is closed.
- The façade of a building is not to be altered without approval of a Development Application.
- Proposed display stands should not detract from the amenity of the immediate area, having regard to the stand itself, the nature of the goods displayed or the number of stands in the immediate area.
- That the proprietors of news agencies be permitted to place tables on the footpath outside their premises to allow for the completion of forms subject to no financial transactions taking place.



- The applicant must provide a certificate of currency (minimum level of indemnity for \$10 million) from their respective public liability insurer with Council's interest noted on the policy and indemnifying Northern Beaches Council, not in respect of the granting of the approval (which would be impermissible), but in respect of any damage, injury, or loss occurring on or in relation to the use pursuant to the approval (should one issue) of the approved area of Council's footpath before an approval is issued. Proof of ongoing insurance must also be made available on demand.
- The approval or a true copy of the approval must be produced on demand to Council Officers when requested.
- Any associated advertising must be consistent with relevant planning instruments

### 3.2 Fees and Bonds

#### Application Fee

The Application Fee payable shall be in accordance with the Council's Schedule of Fees and Charges.

Application fees currently charged are based on the number of square metres used in the footpath Merchandise display area for the period of the term.

#### Security Bond

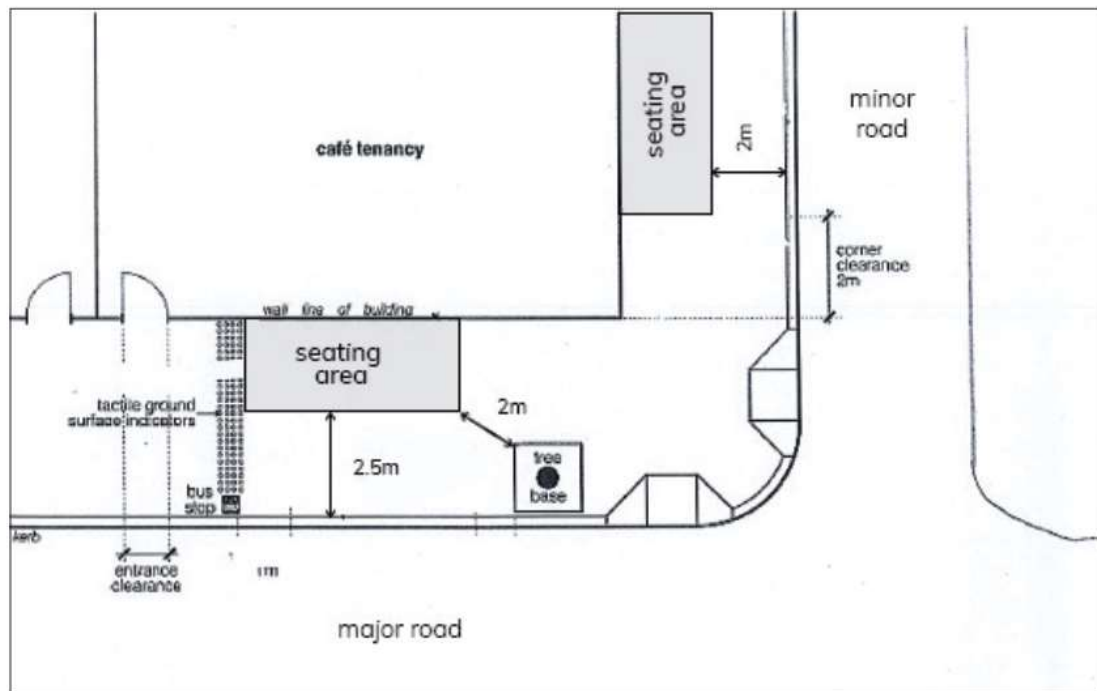
The applicant shall pay a Security Bond on application to use of the Footpath Merchandise area. This amount shall be in accordance with the Council's Schedule of Fees and Charges. The Security Bond is intended to provide insurance for Council where damage to Council property has occurred, rent for the footpath merchandise area has not been paid and similar issues.

The Security Bond will be refunded to the proprietor when the Footpath Merchandise Approval expires or the proprietor has stated that they wish to cancel it.



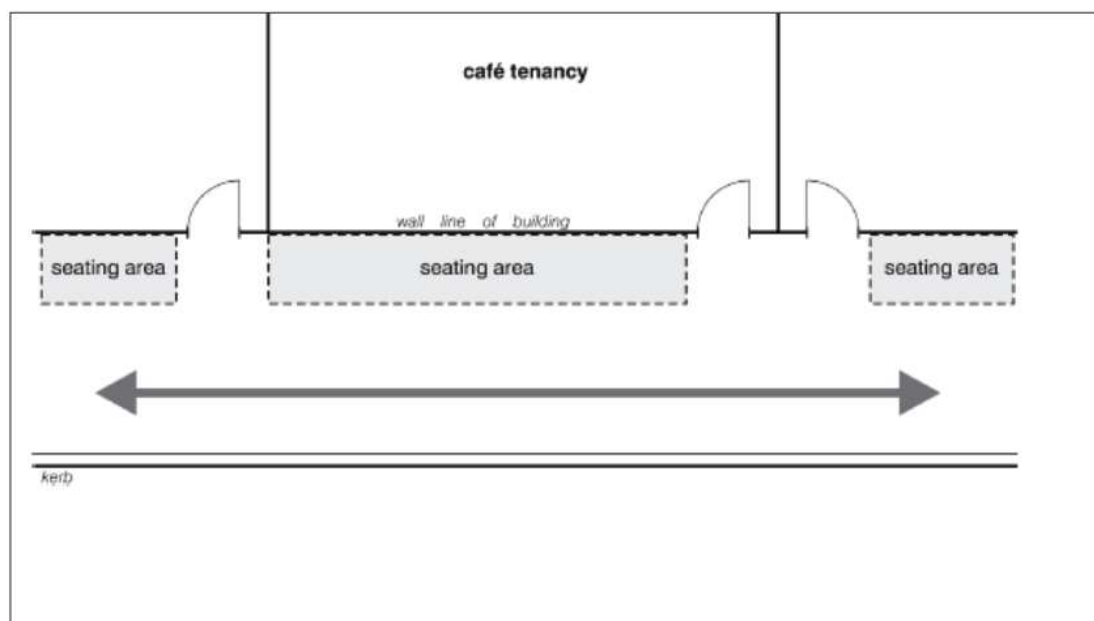
## Appendix

1.



## Appendix

2.



## Appendix

3.







## Appendix

### 4.

Current Footpath Merchandise Exclusion Zones

- The Corso, Manly